

STATE REVIEW FRAMEWORK

Maine

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2013

**U.S. Environmental Protection Agency
Region 1, Boston**

**Final Report
November 10, 2015**

Executive Summary

Introduction

EPA Region 1 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Maine Department of Environmental Protection (MEDEP). EPA bases SRF findings on numerous data and file review metrics, summaries of which are included in an Appendix to this report, as well as conversations with program management and staff.

For purposes of this report, EPA has highlighted the most important metrics that demonstrate MEDEP's program performance. The EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

Areas of Strong Performance

CWA

- For a majority of the files reviewed, MEDEP completes post-inspection reporting expeditiously.
- The MEDEP does an excellent job at making a compliance determination and identifying violations as Significant Non-Compliance at permitted facilities classified as major. A monthly non-compliance review meeting implemented by the Division of Water Quality Management within the MEDEP aids greatly in assuring this high level of consistent compliance determination.
- MEDEP is highly effective at choosing enforcement responses that return sources in violation back to compliance in an appropriate manner. For the review period, the MEDEP was successful at ensuring that all penalties levied were paid in full.

CAA

- MEDEP's inspection reports at Title V sources are very well-written and include a Title V inspection checklist to ensure that compliance determinations are made for all equipment and all applicable regulations.
- MEDEP does an excellent job of documenting violations and making accurate compliance and HPV determinations.
- MEDEP does an excellent job of taking appropriate enforcement and calculating appropriate penalties and documenting the rationale for any penalty reductions and documenting that penalties have been paid.

RCRA

- MEDEP does an excellent job of identifying violations during hazardous waste compliance inspections, and follows the inspections up with timely enforcement actions that are properly reported into the RCRAInfo national database.
- MEDEP performs an excellent job of taking timely enforcement in their RCRA program. Completed trip reports have the appropriate level of detail and supporting documentation to support enforcement decisions, and are routinely completed shortly after completing the RCRA inspection. In addition, MEDEP routinely follows up their inspections with a notice of violation. This notification practice effectively puts the facility on notice of the observed violations, and eliminates the need to prepare a formal ‘early warning notice’ or other mechanism prior to issuing formal enforcement.
- MEDEP does an excellent job in investing limited inspection resources to fulfill TSD and LQG inspection requirements, and also manages to conduct many other inspections at facilities referred to them by citizen complaints, and smaller generators and non-notifiers.

Priority Issues to Address

The following are the top-priority issues affecting the state program’s performance.

Most Significant CWA-NPDES Program Issues¹

The following are the top-priority issues affecting the state program’s performance:

- The review indicates that MEDEP has not completed the migration of required data inspection and enforcement data elements into the national data systems (ECHO/ICIS). The State began the migration process in 2012. Data elements that have yet to be migrated are stormwater permit related facility and inspection data, enforcement data and Single Event Violations.
- The MEDEP does not currently follow standard practices or national program guidance when determining Significant Non-Compliance with respect to wet-weather sources such

¹ EPA’s ‘National Strategy for Improving Oversight of State Enforcement Performance’ identifies the following as significant recurrent issues: ‘Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors.’

as sanitary sewer overflows, and stormwater permits including (industrial, construction and municipal separate stormwater sewer systems).

- This review indicates that the State does not follow EPA national or State protocol for calculating economic benefit as part of an enforcement penalty. MEDEP staff did not demonstrate consistency in following either the EPA national penalty policy guidance or internal MEDEP standard operating procedures.

Most Significant CAA Stationary Source Program Issues

The following are the top-priority issues affecting the state program's performance:

- Both the file review metrics and the data metrics indicate that MEDEP has had some issues regarding the accuracy and completeness of data entered into the Airs Facility Subsystem (AFS) database.
- Both the file review metrics and the data metrics indicate that MEDEP has had some issues regarding the timely entry of minimum data requirements (MDRs) into the AFS database.
- Inspection reports for synthetic minor sources that are part of the compliance monitoring strategy (CMS) plan were found deficient in many cases because compliance determinations were not made for all applicable equipment and/or regulations.

Most Significant RCRA Subtitle C Program Issues

The following are the top-priority issues affecting the state program's performance:

- The review indicates that significant non-compliers (SNCs) are not always accurately identified and/or followed up with the appropriate enforcement mechanism.
- For significant penalty reductions, MEDEP should improve documentation supporting decisions to reduce initial penalties beyond explanation such as "in the interest of settlement" or "because a facility came into quick compliance."

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I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed once every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

II. SRF Review Process

Review period: Fiscal Year 2013

Kickoff Meeting at Maine DEP: March 19, 2014

CWA File Review Date(s):

2/14/14, 3/3/14, 3/17/14, 3/24/14, 4/1/14, 4/11/14, 4/17/14, 4/21/14, 6/13/14

CAA File Review Date(s):

5/12/14, 5/13/14, 5/14/14, 5/15/14, 5/16/14, 5/19/14

RCRA File Review Date(s):

5/28/14, 5/29/14

State and EPA key contacts for review:

Clean Water Act

Alex Rosenberg, EPA Region 1 – (617) 918-1709
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Clean Air Act

Thomas McCusker, EPA Region 1 – (617) 918-1862
Louis Fontaine, MEDEP – (207) 287-7010
Kurt Tidd, MEDEP – (207) 287-9064

Resource Conservation and Recovery Act

Drew Meyer, EPA Region 1 – (617) 918-1755
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SRF Contacts

James Chow, EPA Region 1 – (617) 918-1394
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III. SRF Findings

Findings represent EPA's conclusions regarding state performance and are based on findings made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state's last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue's severity and root causes

There are three categories of findings:

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric's SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

Clean Water Act Findings

CWA Element 1 — Data	
Finding 1-1	Area for State Improvement
Summary	The file review indicates that Maine DEP (MEDEP) fails to completely and accurately display enforcement data, Single Event Violations (SEVs) and stormwater permit facility/inspection/enforcement data in the national data systems (ECHO/ICIS).
Explanation	<p>Data concerning State formal enforcement actions and penalty amounts for both major and non-major individual facilities and major general facilities, is not yet completely or accurately represented in the national data systems. EPA required MEDEP to migrate all compliance data from PCS into ICIS by the end of 2012. This process was completed with the following exceptions.</p> <p>In regards to Enforcement Codes, when Maine DEP staff were reviewing data codes in ICIS during the transition from PCS, there were none that aligned directly with State database codes. The State created a work-around and is currently testing their program to ‘flow’ enforcement and penalty data into ICIS.</p> <p>Minimum data requirements for non-major facilities issued in the 1980’s, revised in 2000 and translated into ICIS codes in EPA’s December 28, 2007 memo, include Permit Facility Data, Permit Event data, inspections, pretreatment and single event violations (SEVs) and must therefore be entered into ICIS.</p> <p>This issue was raised as an Area for State Improvement in the Round 2 SRF review. EPA subsequently provided MEDEP with guidance regarding entry of SEVs in the data system. MEDEP was then required to develop a standard operating procedure (SOP) on entering SEVs by August 31, 2012.</p> <p>Using their SOP, SEV data has been entered into the State EFIS database since 2014 [derived from Significant Non-Compliance (SNC) codes which have been identified quarterly by the MEDEP for many years]. A module has been constructed by MEDEP to submit SEV data into ICIS. Test records have been entered into the module for assurance testing of data transmission into ICIS. Once the module has been fully tested, all required FY14 data will be backfilled into ICIS.</p>

Currently, EPA’s minimum data requirements do not require stormwater specific data to be tracked in ICIS, besides a single category called ‘MS4 class.’ General facility information and inspection data about stormwater permittees is required to be entered into ICIS, however, and the State has failed to enter this information. The State has been tracking both general and individual stormwater permittee information in the State’s internal database, EFIS. Consistent with currently proposed data rules (e-reporting rule) the State is now working towards flowing stormwater (MS4, industrial, and construction) permit and enforcement data from EFIS into ICIS and plans to be finished with the implementation of this data flow by January of 2016.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Files reviewed where data are accurately reflected in the national data system	100%		28	49	57.1%

State response

MEDEP has entered some SEV codes into our EFIS database and has been working to try to send those records to the EPA ICIS database. We have encountered some problems and continue to work to resolve the issues encountered. MEDEP is currently working on flowing stormwater data from the EFIS system to the ICIS system. We have had some problems present themselves during this process, and we are currently working to resolve those problems. We expect that most, and possibly, all of the required data elements noted below will successfully flow by December 31, 2015. However, due to multiple data projects and the limited resources needed to complete them we are concerned that we may not be able to meet the September 30, 2015 deadline for flow of SEVs. We are therefore requesting an extension of this date to December 31, 2015.

If for some technical reason MEDEP is unable to successfully flow SEVs by December 31, 2015, we will provide the EPA with a report of the SEVs from calendar year 2015 by January 31, 2016. However, if SEV data is successfully flowing to ICIS we request that EPA access SEV data from the federal data base rather than a separate report from MEDEP.

MEDEP will submit the requested reports for data transmission errors and the updated SEV policy by the dates requested.

Region 1’s Response to MEDEP’s comments

After discussing a counter proposal for Finding 1-1 of the SRF3 report with MEDEP, Region 1 is fine with leaving MEDEP’s comment as it stands in the current draft and accepting their request to delete the requirement to submit SEV summary reports for the next two years.

MEDEP has informed the Region that the SEV policy they are implementing will ensure that all formal enforcement actions are entered into ICIS along with their corresponding SEVs. This fact negates the need for producing a summary report for the Region which would be a mere replication of what is accessible in ICIS.

Recommendation

ORIGINAL REGION 1 RECOMMENDATIONS:

By September 30, 2015, enter/send information necessary to satisfy the inspection, testing, compliance monitoring, and enforcement minimum data requirements (MDRs) to EPA's national data systems of record, every 60 days, or as specified in program guidance. See December 28, 2007 *ICIS Addendum to the Appendix of the 1985 Permit Compliance System (PCS) Statement*. Also starting September 30, 2015, within thirty days of each data transmission through January 31, 2017, report to Region 1 EPA any errors or problems associated with ICIS data transfers.

Additionally, by October 31, 2015 the State shall update their SEV program policy (SOP) for review and approval by Region 1 EPA.

By January 1, 2016 and January 1, 2017 the State shall submit a summary report of all SEV entries from the preceding year and their corresponding follow-up enforcement activities. The report must include explanations of any deviation from the approved SEV program SOP.

REVISED REGION 1 RECOMMENDATIONS:

By January 31, 2016, enter/send information necessary to satisfy the inspection, testing, compliance monitoring, and enforcement minimum data requirements (MDRs) to EPA's national data systems of record, every 60 days, or as specified in program guidance. See December 28, 2007 *ICIS Addendum to the Appendix of the 1985 Permit Compliance System (PCS) Statement*.

If MEDEP is unable to successfully flow SEVs to EPA's ICIS data system by April 30, 2016, it will provide the EPA Region 1 with a report of the SEVs by April 30th of each previous calendar year, beginning May 31, 2016 for the year 2015, until SEV data begins to flow into ICIS.

In addition, by January 31, 2016, the State shall update their SEV program policy (SOP) for review and approval by Region 1 EPA.

CWA Element 2 — Inspections

Finding 2-1	Area for State Attention																		
Summary	This review identified that the State’s stormwater inspectors, while exceeding the State’s 2013 Compliance Monitoring Strategy (CMS) goal for industrial stormwater inspections, failed to meet the CMS goal for MS4 inspections.																		
Explanation	<p>The MEDEP met all CMS goals in every NPDES category except MS4, and greatly exceeded their commitment for inspecting Industrial stormwater Multi-Sector General Permits (MSGP). The national CMS goal for industrial stormwater is to annually conduct a number of inspections that at a minimum equals 10% of the 900 permittees that make up the permitted universe (D factor in metric table below). For Maine, this CMS commitment translates to 90 inspections. MEDEP conducted approximately 950 industrial stormwater inspections in 2013 with a coverage rate of approximately 60% of the permitted universe (i.e., they visited individual facilities more than once), thereby exceeding their CMS commitment by over 1000%.</p> <p>National guidance states that a state’s MS4 entities should be inspected at a frequency of approximately once every five years and at least once each before October 1, 2014. The State’s 2013 CMS plan, negotiated with Region 1, indicated that 10% of the MS4 universe must be inspected annually, or 4 permittees out of the State’s total MS4 permitted universe of 38. In 2013 three MS4 inspections were completed equating to 75% of the CMS commitment. MEDEP had not conducted any MS4 inspections prior to 2013, thereby not attaining the national goal to inspect the entire MS4 permitted universe by October, 2014.</p>																		
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>4a8 Industrial stormwater inspections</td> <td>100%</td> <td></td> <td>950</td> <td>90</td> <td>1056%</td> </tr> <tr> <td>4a7 Phase I & II MS4 audits or inspections</td> <td>100%</td> <td></td> <td>3</td> <td>4</td> <td>75%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	4a8 Industrial stormwater inspections	100%		950	90	1056%	4a7 Phase I & II MS4 audits or inspections	100%		3	4	75%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
4a8 Industrial stormwater inspections	100%		950	90	1056%														
4a7 Phase I & II MS4 audits or inspections	100%		3	4	75%														
State response	In 2014, three (3) MS4 audits were completed (one was EPA lead) and in 2015, as of July 1, 2015, seven (7) MS4 audits have been completed. MEDEP intends to conduct four additional MS4 audits and one follow-up Audit for SMCC to verify the new storm sewer infrastructure map. MEDEP will submit the requested work plan by December 31, 2015.																		

Recommendation	By January 31, 2016, MEDEP shall submit a work plan to EPA Region 1 detailing how the Division of Water Quality Management will reprioritize resources in order to meet all CMS goals for MS4 inspections including a date by which the entire MS4 universe will have been inspected.
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CWA Element 2 — Inspections

Finding 2-2	Area for State Attention
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Summary	This review identifies that State inspectors do not consistently or accurately document a compliance determination in post-inspection forms or reports.
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Explanation	State inspectors have different post-inspection report templates and inspection checklists for the different types of individual wastewater ('3560', CEI, focused), industrial stormwater, construction stormwater and MS4 NPDES permits. A majority of these forms and templates do not require inspectors to make a clear compliance determination but instead simply list observations. In some instances the concluding section of a template is labeled 'recommendations' and yet is used to document issues that are actually areas of non-compliance,. In many other cases an inspection report's cover letter is the sole location where documentation of non-compliance is found. In three instances, as shown in metric 7e in Finding 3-2 (two for individual wastewater permits and one for an industrial stormwater permit), the compliance determination that was made either contradicts evidence that has been reported previously or was simply incorrect. These few cases of inaccurate compliance determination could possibly have been avoided with better inspection report and post-inspection documentation procedures. The MEDEP is currently working on revising industrial stormwater and wastewater inspection documents and forms to assist inspectors in making clearer post-inspection compliance determinations. The MEDEP has already begun to improve narrative inspection report language to qualify the nature of their observations and to cite specific permit requirements.
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Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%		36	50	72%

State response	By December 1, 2015, MEDEP will incorporate a section into our inspection and post inspection forms that bring clarity to any non-compliance issues documented during the inspection and submit these forms to EPA for review and approval of these new sections.
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Recommendation	By January 1, 2016, MEDEP should complete their internal review of inspection and post-inspection documentation forms/procedures in order to ensure that each inspection makes a well-documented and accurate compliance determination. The documentation of compliance determination can be a confidential and internal document. On January 31, 2016 submit all revised Clean Water Act inspection forms to Region 1 EPA for review and approval.
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CWA Element 2 — Inspections

Finding 2-3	Meets or Exceeds Expectations												
Summary	This review identifies that State meets or exceeds expectations with respect to completing inspection reports within the prescribed timeframe.												
Explanation	The MEDEP completed 39 out of the 44 inspection reports reviewed within the prescribed timeframe of 30 days. On average, the reviewed reports were completed 22 days after the date of inspection.												
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>6b Inspection reports completed within prescribed timeframe</td> <td>100%</td> <td></td> <td>39</td> <td>44</td> <td>89%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6b Inspection reports completed within prescribed timeframe	100%		39	44	89%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
6b Inspection reports completed within prescribed timeframe	100%		39	44	89%								
State response	MEDEP concurs with the EPA's findings.												
Recommendation	None.												

CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations					
Summary	The review indicates that MEDEP makes accurate compliance determinations and, at major facilities, accurately identifies Single Event Violations (SEVs) as either Significant Non-Compliance (SNC) or non-SNC in a timely manner.					
Explanation	<p>Maine DEP made accurate compliance determinations for 40 out of 43 inspections reviewed. Implementing the recommendation of Finding 2-2 will improve performance on this measure.</p> <p>Additionally, the department accurately identified SEVs as either SNC or non-SNC, and reported SNC status in a timely manner for all major facilities for which these criteria applied. Tracking protocols implemented through the department’s monthly Non-Compliance Review (NCR) meetings were critical to the success of this metric.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7e Inspection reports reviewed that led to an accurate compliance determination	100%		40	43	93%
	8b Single-event violations accurately identified as SNC or non-SNC	100%		12	13	92%
	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		6	6	100%
State response	MEDEP concurs with the EPA’s findings.					
Recommendation	None.					

CWA Element 3 — Violations

Finding 3-2	Area for State Improvement												
Summary	The review indicates that Single Event Violations (SEV) are not accurately identified as significant noncompliance (SNC) or non-SNC for non-DMR, wet weather sources.												
Explanation	<p>This review finds the state does not currently track SEVs for non-DMR data (wet-weather sources including: CAFO, SSO, CSO, and stormwater violations). No consistent methodology for SNC determination using SEV data is therefore being followed.</p> <p>As part of file reviews for Elements 3-5 (timeliness of data entry, completion of commitments and inspection coverage) Region 1 EPA reviewed files for wet weather and pretreatment facilities that the state inspected in accordance with its CMS plan to ensure that inspections and enforcement activities at these facilities are well implemented.</p> <p>The state has developed and implemented a number of improvements with regard to its ability to evaluate and respond to wet-weather NPDES water quality violations by having the stormwater manager present stormwater violations at the Department’s monthly Non-Compliance Review (NCR) meetings where, historically, only DMR-SEV data was discussed using SNC criteria. DEP continues to develop protocols to ensure that wet-weather SNC violations are defined and addressed in a timely and appropriate manner.</p>												
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #						
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
State response	As recommended, MEDEP will develop an internal procedure for applying SNC criteria to all wet-weather SEVs observed or reported.												
Recommendation	By January 31, 2016, MEDEP will provide Region 1 by email/memo a description of the plan implemented for applying SNC criteria to all wet-weather SEVs observed or reported to the State by a facility. This procedure should reference the October 2007 Interim Wet Weather SNC Policy.												

CWA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	MEDEP is highly successful at selecting enforcement responses that effectively return sources in violation back to compliance in an appropriate manner.					
Explanation	<p>This review found that over 90% of enforcement responses were appropriate and brought violators back into compliance.</p> <p>In 2013 the state did not yet enter informal enforcement actions into ICIS for either major or non-major sources [(not a Required Data Element (RIDE) but a very important part of an enforcement program)]. Data Metric Analysis (DMA) frozen data for metric 10a1, ‘major facilities with timely actions,’ does not reflect reality therefore due to the fact that the state often chooses to address violations at both major and non-major facilities with timely informal enforcement actions.</p> <p>In 2013 the state produced an SOP to flow all informal enforcement data into ICIS and is currently testing the computer protocol. Resolution of data entry issues is covered under Finding 1-1. The file review results demonstrated that timely enforcement for majors is being conducted as displayed by the results of metrics 9a and 10b shown below.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		22	24	91.7%
	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		21	23	91.3%
State response	MEDEP concurs with the EPA’s findings.					
Recommendation	None.					

CWA Element 4 — Enforcement

Finding 4-2 Area for State Attention

Summary	<p>This review identified that the State conducted a disproportionately low number of enforcement actions against NPDES stormwater permittees (industrial stormwater and MS4) when compared against the number of inspections conducted and subsequent enforcement actions taken for other types of NPDES permits.</p>																	
Explanation	<p>During the file review period, the state conducted over 900 industrial stormwater inspections resulting in 8 informal enforcement actions. No MS4 enforcement actions have ever been taken by the State. Other NPDES CMS categories had rates of enforcement follow-up as high as 80% for SSO inspections. Construction stormwater inspections, led by a different division at MEDEP than the industrial and MS4 stormwater group, had an enforcement follow-up rate of 25%. Because stormwater permit requirements result in site-specific practices and are less based on numeric standards and reporting such as individual NPDES wastewater discharge permits, inspection results are the critical data-set for both compliance determination and enforcement follow-up.</p> <p>In late 2012, the stormwater group moved from the Division of Environmental Assessment to the Division of Water Quality Management. This internal MEDEP re-structuring brought together, for the first time, the stormwater inspectors and the NPDES enforcement officers. The reorganization has increased communication between stormwater inspectors and enforcement staff which has led to two formal industrial stormwater enforcement actions having been commenced or completed since the review year. Prior to the review year, only one formal industrial stormwater enforcement action had been settled by the State.</p>																	
Relevant metrics	<table border="1"> <thead> <tr> <th data-bbox="483 1409 1019 1461">Metric ID Number and Description</th> <th data-bbox="1027 1398 1089 1461">Natl Goal</th> <th data-bbox="1105 1398 1170 1461">Natl Avg</th> <th data-bbox="1203 1398 1235 1461">State N</th> <th data-bbox="1252 1398 1284 1461">State D</th> <th data-bbox="1300 1398 1430 1461">State % or #</th> </tr> </thead> <tbody> <tr> <td colspan="6" data-bbox="483 1472 1019 1524">No metric exists for this finding</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	No metric exists for this finding										
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
No metric exists for this finding																		
State response	<p>MEDEP has developed a parallel process (SWNCR) to the regular NCR process to review MSGP and MS4 stormwater compliance and enforcement issues every month. The DWQM is also developing compliance policies for both the MSGP and MS4 permits to facilitate consistent, timely, and effective compliance and enforcement decisions. MEDEP will submit this plan pursuant to the recommendations.</p>																	

Recommendation	In conjunction with the work plan submitted pursuant to Finding 2-2, by January 31, 2016, the MEDEP shall submit a work plan to EPA Region 1 detailing how, through their reprioritization of resources, the DWQM will conduct effective stormwater enforcement through the process of compliance determination and communication between inspectors and enforcement officers.
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CWA Element 5 — Penalties

Finding 5-1	Area for State Improvement												
Summary	This review indicates that the State does not follow national or State protocol for calculating economic benefit as part of an enforcement penalty.												
Explanation	<p>The national Enforcement Management System (EMS) guidance as well as State MEDEP internal protocols for calculating penalties indicate that every reasonable effort shall be made to calculate and recover the economic benefit of noncompliance (and that EPA’s software, ‘BEN’, shall be used to calculate the dollar amount of economic benefit). The State either did not calculate an economic benefit or failed to do so using BEN software in 7 of 12 cases reviewed.</p> <p>NPDES enforcement cases and penalty calculations are conducted within two different MEDEP departments, land and water (DWQM), thus subjecting penalty calculations to multiple distinct penalty policies.</p> <p>No calculations of economic benefit were observed during the review for any of the 12 penalty cases (for either the departments of land or water within the MEDEP). Additionally, files failed to give justification for not calculating economic benefit.</p>												
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations reviewed that consider and include gravity and economic benefit</td> <td>100%</td> <td></td> <td>5</td> <td>12</td> <td>41.7%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		5	12	41.7%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		5	12	41.7%								
State response	MEDEP will train relevant staff in the use of economic benefit analysis tools and will respond per the recommendation.												

Recommendation	<p>By January 31, 2016, the MEDEP should have all enforcement staff whose jobs require the calculation of NPDES penalties undergo training in economic benefit calculations policy to ensure a consistent methodology for calculating economic benefit.</p> <p>By January 31, 2016, ME DEP should send an email/memo to EPA confirming that this training has been completed.</p>
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CWA Element 5 — Penalties

Finding 5-2	Meets or Exceeds Expectations																		
Summary	This review indicates that the State documents well its rationale for changing an initial calculated penalty amount before settlement, and diligently collects all penalties that it issues.																		
Explanation	<p>Only two penalty cases reviewed (both construction stormwater cases in the land department) lacked explicit documentation of why the penalty amount that was initially calculated was not equal to the final settlement amount.</p> <p>The department ensured collection of penalties issued during the review year.</p>																		
Relevant metrics	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Metric ID Number and Description</th> <th style="text-align: center;">Natl Goal</th> <th style="text-align: center;">Natl Avg</th> <th style="text-align: center;">State N</th> <th style="text-align: center;">State D</th> <th style="text-align: center;">State % or #</th> </tr> </thead> <tbody> <tr> <td>12a Documentation of the difference between initial and final penalty and rationale</td> <td style="text-align: center;">100%</td> <td></td> <td style="text-align: center;">8</td> <td style="text-align: center;">10</td> <td style="text-align: center;">80%</td> </tr> <tr> <td>12b Penalties collected</td> <td style="text-align: center;">100%</td> <td></td> <td style="text-align: center;">8</td> <td style="text-align: center;">8</td> <td style="text-align: center;">100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	12a Documentation of the difference between initial and final penalty and rationale	100%		8	10	80%	12b Penalties collected	100%		8	8	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
12a Documentation of the difference between initial and final penalty and rationale	100%		8	10	80%														
12b Penalties collected	100%		8	8	100%														
State response	MEDEP concurs with the EPA's findings.																		
Recommendation	None.																		

Clean Air Act Findings

CAA Element 1 — Data	
Finding 1-1	Area for State Improvement
Summary	Both the file review metrics and the data metrics indicate that MEDEP has had some issues regarding the accuracy and completeness of data entered into AFS.
Explanation	<p>A comparison of Metric 1h1 of the Data Metric Assessment (DMA) with the MEDEP information for this metric indicates that for FY 2013 the total amount of assessed penalties in AFS does not correspond with the actual amount of penalties assessed by MEDEP. Most of the penalties not reported in AFS were for violations at minor facilities and one mobile source (a car dealership) that are not federally-reportable; however, one penalty for a synthetic minor 80 percent source (SM-80) was not entered into AFS. Four out of five reportable penalties were entered correctly. MEDEP has since entered the missing penalty information into AFS.</p> <p>A comparison of Metric 5a of the DMA with the MEDEP information for this metric indicates that 12 Title V full compliance evaluations (FCEs) were not conducted as required (the DMA reports that FCEs were conducted for 42 out of 54 facilities). A detailed explanation of the issues surrounding this metric can be found in Finding 2-2 regarding FCE coverage at Title V facilities. The main issues here were that AFS was not updated to reflect changes in the operating status, and size classification, of some facilities. MEDEP has since made the applicable changes. Taking the above into account, MEDEP conducted FCEs at 42 out of 50 (84%) of its Title V major sources within the proper CMS inspection frequency.</p> <p>A comparison of Metric 5b of the DMA with the MEDEP information for this metric indicates that 7 SM-80 FCEs were not conducted as required (the DMA reports that FCEs were conducted at 16 out of 23 facilities). A detailed explanation of the issues surrounding this metric can be found in Finding 2-2 regarding FCE coverage at SM-80 facilities. The main issues here were that AFS was not updated to reflect changes in operating status and size classification of some facilities. MEDEP has since made the applicable changes. Taking the above into account, MEDEP conducted FCEs at 16 out of 16 SM-80 sources (100%) within the proper CMS inspection frequency.</p>

A comparison of Metric 5e of the DMA with the MEDEP information for this metric indicates that MEDEP did not review all Title V annual compliance certifications. Specifically, the DMA reports that MEDEP reviewed 53 out of 59 Title V certifications in FY 2013. A closer look at this information reveals that MEDEP did review all Title V annual certifications received. There was an AFS/ECHO logic issue with 3 facilities that will be explained further in Finding 2-2. In addition, it was found that MEDEP did not enter 3 reviewed Title V annual compliance certifications into AFS. MEDEP has since entered the missing certification reviews into AFS. Taking the above into account, MEDEP reviewed Title V annual compliance certifications for 56 out of 56 (100%) of certifications received in FY 2013.

A comparison of Metric 7b1 of the DMA with the MEDEP information for this metric indicates that MEDEP did not change the compliance status from “in compliance” to “in violation” for 4 out of 7 facilities issued informal enforcement actions. In past SRF reviews, EPA Region I recommended that minor violations or deviations (e.g. where a facility is required to record the pressure drop across a baghouse on a daily basis and failed to record the pressure drop on one day for the entire year) that were quickly resolved and where no formal enforcement was to be taken did not warrant a change in the compliance status to “in violation” since the violating facility had already returned or would quickly return to compliance. In these instances, the Region felt there was an unnecessary burden for data entry personnel to change the compliance status for such a short period of time (typically less than 30 days). A closer look at the information for these 4 facilities indicates that the violations were very minor in nature and that MEDEP was acting on EPA’s suggestion. Therefore, the amount of alleged violations reported per informal enforcement action should be 3 out of 3 (100%) (discounting the 4 violations that did not require a compliance status change).

The file review also indicated some data accuracy issues. Specifically, the file review revealed that MEDEP did not enter into AFS information regarding the following: a retest at one facility with a results code of ‘pass’; a Letter of Warning to one facility; and, FCEs for two facilities.

There were also some data timeliness issues that will be discussed as a separate finding. The state numerator and denominator for Metric 2b encompass both data accuracy/completeness issues and data timeliness issues from the file review.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	1h1 Total Amount of Assessed Penalties			4	5	80.0%
	2b Accurate MDR data in AFS	100%		21	25	84.0%
	5a FCE coverage: majors and mega-sites	100%	88.5%	42	50	84%
	5b FCE coverage: SM-80s	100%	93.3%	16	16	100%
	5e Review of Title V annual compliance certifications	100%	81.3%	56	56	100%
	7b1 Violations reported per informal actions	100%	59.5%	3	3	100%
	7b3 Violations reported per HPV identified	100%	57.5%	1	1	100%
State Response	This recommendation can be accomplished by the Bureau transitioning from its AFS database to the EPA ICIS data system, which is now being used. The staff will not have to enter information into multiple systems and will be able to track the data and information more timely.					
Recommendation	<p>Beginning immediately, EPA recommends that MEDEP pay closer attention to facility operating status and class designation changes to ensure that AFS is updated in a timelier manner.</p> <p>To this end, beginning January 31, 2016, EPA recommends that MEDEP develop a standard operating procedure (SOP) that describes the procedures to follow to ensure changes in the operating status or changes in the classification codes of facilities are relayed to the ICIS data entry person on an ongoing basis as changes occur.</p> <p>By January 31, 2016, MEDEP should provide Region 1 a status update on the classification SOP.</p> <p>By April 1, 2016, EPA will assess MEDEP's entry of MDRs into the AFS system, and will close this action once it confirms that MEDEP has sustained complete and timely data entry of its MDRs for four quarters.</p>					

CAA Element 1 — Data

Finding 1-2	Area for State Improvement
Summary	Both the file review metrics and the data metrics indicate that MEDEP has had some issues regarding the timely entry of MDRs into AFS.
Explanation	<p>A review of Metric 3a2 of the DMA indicates that MEDEP had 3 out of 3 untimely HPV entries entered into AFS more than 60 days after the HPV was identified for FY 2013. MEDEP reported that one untimely HPV entry should have had its ‘Day Zero’ revised based on follow-up information supplied by the facility that required further review by MEDEP to determine whether the violations met the HPV criteria. MEDEP had requested that ‘Day Zero’ be revised to 10/30/13. Had the date been changed by EPA, the HPV would have been identified and entered into AFS in a timely manner (within 20 days). Another of the untimely HPV entries was inaccurately placed on the HPV list. This facility had failed a stack test for particulate matter, but further review by MEDEP determined that the facility was not ‘major’ for the violating pollutant, particulate matter. Thus this facility did not meet the HPV criteria. Taking the above into account, 1 out of 2 (50%) of the HPVs were entered in an untimely manner.</p> <p>A comparison of Metric 3b1 of the DMA with the MEDEP information for this metric indicates that 35 compliance monitoring activities out of 151 (23.2%) were not entered into AFS in a timely manner (within 60 days of the activity). The DMA reports that compliance monitoring activities were entered into AFS in a timely manner for 116 out of 151 (76.8%) of actions. MEDEP reported that the primary reason for the 35 late entries were that field staff, who spend most of their time out in the field, were sometimes late in submitting field activities to the MEDEP AFS data entry person. MEDEP also reported that, on occasion, the compliance monitoring MDRs were not properly uploaded from the MEDEP AECTS database to AFS. MEDEP’s transition to its new EFIS database is anticipated to resolve this occasional problem.</p> <p>A review of Metric 3b2 of the DMA indicates that 32 out of 76 stack tests (42.1%) were not reported in a timely manner (within 120 days from the date of the activity). The DMA reports that stack tests were entered into AFS in a timely manner for 44 out of 76 (57.9%) of stack tests. MEDEP reported that stack tests were sometimes entered into AFS in an untimely manner because MEDEP prefers to enter the stack test data once the final stack test results of ‘pass’ or ‘fail’ are known so</p>

both the stack test activity and the results code can be entered at the same time for efficiency purposes. Since the final stack test reports are sometimes late, the review of these reports, used to determine the results code of the tests, often cannot be done until after the entry due date in AFS, which is based on the date of the stack test itself. MEDEP also reported that it had undertaken an initiative in FY 2013 to quality-assure its stack testing data and found that some past stack test activities had not been entered into AFS, and thus entered this missing data late.

A comparison of Metric 3b3 of the DMA with the MEDEP information for this metric indicates that 2 enforcement-related MDRs out of 14 (14.3%) were entered into AFS more than 60 days after the enforcement action. The DMA reports that enforcement-related MDRs were entered into AFS in a timely manner for 12 out of 14 (85.7%) such actions. The two actions entered in an untimely manner were for the same facility and both actions were only slightly late [the Notice of Violation (NOV) was entered into AFS 76 days after the enforcement action was taken, and the Consent Agreement (CA) was entered into AFS 62 days after the enforcement action was taken].

The file review revealed that there were some timeliness issues as well. Specifically, MEDEP did not enter into AFS FCE information for two facilities and did not enter into AFS information regarding a retest with a results code of 'pass' for one facility. In addition, MEDEP did not enter into AFS information regarding a Letter of Warning issued to one facility.

The numerator and denominator for Metric 2b encompass both the data accuracy/completeness issues and the data timeliness issues from the file review.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Accurate MDR data in AFS	100%		21	25	84.0%
3a2 Untimely entry of HPV determinations	0%		1	2	50.0%	
3b1 Timely reporting of compliance monitoring MDRs	100%	80.9%	116	151	76.8%	
3b2 Timely reporting of stack test dates and results	100%	75.4%	44	76	57.9%	
3b3 Timely reporting of enforcement MDRs	100%	68.7%	12	14	85.7%	

State Response	Since the Bureau will not have to put information into multiple data systems now that the EPA ICIS system is being used, this should allow staff to be more timely with data input.
Recommendation	<p>Beginning immediately, EPA recommends that MEDEP field staff responsible for providing compliance monitoring minimum data requirement (MDR) information to the MEDEP AFS data entry person do so in a timelier manner. To this end, beginning in January 2016, EPA recommends that MEDEP field staff and the MEDEP AFS data entry person coordinate on a monthly basis to ensure that all MDR reportable information is provided to the data entry person in a timely manner.</p> <p>Beginning in January 2016, EPA recommends that MEDEP enter stack testing MDR information into AFS in a timely manner using a results code of 'pending' for those stack tests where final test reports are not received and/or reviewed by MEDEP in a timely manner.</p> <p>EPA also recommends that MEDEP transition to the new EFIS database as quickly as possible to resolve the occasional uploading issue found with its current AECTS database where MDR data sometimes does not properly transfer from MEDEP's AECTS database to AFS.</p> <p>By April 1, 2016, EPA will assess MEDEP's entry of MDRs into the AFS system, and will close this action once it confirms that MEDEP has sustained complete and timely data entry of its MDRs for four quarters.</p>

CAA Element 2 — Inspections

Finding 2-1	Area for State Improvement
Summary	<p>For the most part, MEDEP inspectors write well-documented and comprehensive inspection reports with accurate compliance determinations. Many inspection reports for synthetic minor and true minor sources were found deficient because compliance determinations were not made for all applicable equipment and/or regulations.</p>
Explanation	<p>Of the 25 files reviewed, 20 contained compliance monitoring reports (CMRs). In all 20 of the CMRs, MEDEP generally documented the elements listed in Chapter IX of the compliance monitoring strategy (CMS). In 9 of the inspection reports, for synthetic minor and Tier I and Tier II minor sources, the class designation was not found in the report or in the inspection file (this issue alone was not considered when determining the numerator in Metric 6a below); however, there were 5 CMRs out of 20 that were missing documentation regarding one or more FCE elements such as whether a review of fuel supplier records pertaining to the sulfur content of fuels was done.</p> <p>For those reports where an FCE was done at a Title V major source with a Title V license issued (9 facilities), the inspection file included a completed Title V checklist that lists each condition of a Title V license, the method used to determine compliance, and the compliance status of each license condition. MEDEP implemented this checklist after EPA made a recommendation to do so in the Round 2 MEDEP SRF. The use of such a checklist has been considered a ‘Good Practice’ in past SRF Reviews for another New England state. MEDEP should be commended for implementing this checklist.</p> <p>For CMR reports pertaining to synthetic minor and Tier I and Tier II sources, the majority of reports, 9 out of 11 (81.8%) were found deficient because compliance determinations were not made for all applicable equipment and/or regulations. A more detailed source-by-source description of these deficiencies can be found in the ‘optional comments’ section of the file review checklist spreadsheet.</p> <p>EPA’s Region 1 Air Technical Unit has a general policy that inspection reports should be completed within 30 days of conducting an FCE or PCE (partial compliance evaluation), but in no case later than 90 days. Of the 20 inspections reports completed by MEDEP, 16 of the 20 inspection reports were finalized within 30 days, one was finalized within 32 days, one was finalized within 41 days, one was finalized within 85 days, and one was finalized within 93 days.</p>

Please note that the denominator for Metric 6b below is 21 instead of 20, based on the review of a PCE report for an observed stack test.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Documentation of FCE elements	100%		15	20	75%
6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		12	21	57.1%	

State Response The Bureau is working to make more complete compliance determinations as it relates to minor sources. This is also an improvement that will be more robust as the Bureau utilizes the ICIS system.

Recommendation This is the one remaining recommendation from the MEDEP Round 1 SRF. MEDEP has implemented use of a Title V inspection checklist, as recommended by EPA in the last MEDEP SRF report, which has resolved the inspection report deficiencies at Title V sources; however, the CMR reports for synthetic minor and true minor sources continue to have deficiencies. MEDEP has reported that it would be too resource-intensive to carry forward the Title V inspection checklist for use with synthetic minor and true minor sources.

MEDEP has reported that once it transitions to its new EFIS database it will be possible to provide inspection report templates for its synthetic minor and true minor sources that will resolve the current report deficiencies. MEDEP anticipated transition to the EFIS database by no later than March 31, 2015.

EPA recommends that MEDEP transition to the new EFIS database as soon as possible and begin using the report templates for all minor sources immediately upon their availability.

In the meantime, MEDEP field staff should immediately begin writing CMR reports, at least for those facilities covered by their CMS plan that provide compliance determinations for all applicable equipment and regulations.

Each year, EPA will review 3 – 5 reports and will close this action once it confirms that MEDEP is writing thorough CMR reports for all applicable facilities, and providing compliance determinations for all applicable equipment and regulations.

CAA Element 2 — Inspections

Finding 2-2	Area for State Attention
Summary	<p>MEDEP did not meet its FCE commitments regarding its Title V sources, particularly for its mega-sites in FY 2013. MEDEP did meet its FCE commitments in regards to its SM-80 facilities for FY 2013. MEDEP believed that it had until FY 2014 to complete its mega-site inspections.</p>
Explanation	<p>A comparison of Metric 5a of the DMA with the MEDEP information for this metric indicates that 12 Title V full compliance evaluations (FCEs) were not conducted as required (the DMA reports that FCEs were conducted for 42 out of 54 facilities). A closer look at this information reveals that 3 of these 12 facilities were permanently shut down prior to FY 2013; however, MEDEP did not change the operating status of some of these facilities in AFS and did not coordinate with EPA to remove the CMS flags for these 3 facilities. In addition, 1 of the 12 facilities had changed size classification status from a Title V source to a SM-80 source prior to FY 2013; however, the size classification change was not updated in AFS and MEDEP did not coordinate with EPA to change the CMS flag to the proper classification in AFS (an FCE has been completed at this facility within the past 5 years). The eight remaining facilities were inspected late with FCEs occurring in FY 2014. Six of these late FCEs were for mega-sites that MEDEP had believed were not scheduled for FCEs until FY 2014. All 6 mega-sites did have partial compliance inspections conducted by MEDEP in FY 2013. MEDEP has made the applicable changes to ‘operating status’ for the 3 Title V facilities that have permanently shut down. In addition, EPA has removed the associated CMS flags for these 3 facilities and changed the CMS flag for the one facility that changed from a Title V facility to an SM-80 facility. Taking the above into account, MEDEP conducted FCEs at 42 out of 50 (84%) of its Title V major sources within the proper CMS inspection frequency.</p> <p>A comparison of Metric 5b of the DMA with the MEDEP information for this metric indicates that 7 SM-80 FCEs were not conducted as required (the DMA reports that FCEs were conducted at 16 out of 23 facilities). A closer look at this information reveals that 5 of these 7 facilities were permanently shut down prior to FY 2013; however, the MEDEP did not change the operating status of some of these facilities from ‘operating’ to ‘permanently shut down’ in AFS and did not coordinate with EPA to remove the CMS flags for these 5 facilities. One of the remaining facilities has changed names and the reported AFS number is a duplicate that needs to be archived or deleted from AFS. An</p>

FCE was conducted at this facility on 8/16/12. The last remaining facility has not operated in the past 2-to-3 years and its license was transferred to a new company that is a true minor source. MEDEP did not coordinate with EPA to remove the CMS flag for this facility. EPA has since removed the CMS flag for this facility. Taking the above into account, MEDEP conducted FCEs at 16 out of 16 SM-80 sources (100%) within the proper CMS inspection frequency.

A comparison of Metric 5e of the DMA with the MEDEP information for this metric indicates that MEDEP did not review all Title V annual compliance certifications. Specifically, the DMA reports that MEDEP reviewed 53 out of 59 Title V certifications in FY 2013. A closer look at this information reveals that MEDEP did review all Title V certifications received. Of the 6 certifications reported as not being reviewed, 3 of the 6 were reported to be from SM-80 sources for which no such certifications would have been required since these are not Title V facilities (there must be a data logic issue – the DMA under class has reported ‘SM’ for the 3 facilities and a historic CMS code of ‘S’). Of the remaining 3 certifications, all were reviewed and are in the MEDEP database, but were not uploaded to AFS. MEDEP has since entered the missing certification reviews into AFS. Taking the above into account, MEDEP reviewed Title V annual compliance certifications for 56 out of 56 (100%) of certifications received in FY 2013.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a FCE coverage: majors and mega-sites	100%	88.5%	42	50	84%
5b FCE coverage: SM-80s	100%	93.3%	16	16	100%
5e Review of Title V annual compliance certifications	100%	81.3%	56	56	100%

State Response

The specific commitment was a multi-year commitment and was reviewed by EPA and Bureau staff on an annual basis. The timeliness of this commitment was missed by both EPA and the Bureau initially. It has subsequently been rectified and should not be an issue in the future with the use of the EPA ICIS system.

Recommendation

EPA recommends that, at the beginning of each federal fiscal year or whenever inspection targeting occurs, MEDEP double-check the CMS inspection frequency cycle for each applicable inspection category, especially for mega-sites, and note the beginning year and completion year of each CMS inspection cycle to ensure that all required FCEs are completed within the proper time frame.

	<p>By June 1, 2016, ME DEP should send an email/memo to EPA when this action has been completed.</p> <p>EPA will close this action once it confirms that MEDEP is conducting FCEs at the frequencies agreed to in its compliance monitoring strategy.</p>
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CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations
Summary	MEDEP does an excellent job of documenting violations and making accurate compliance and HPV determinations.
Explanation	<p>In 13 out of the 25 files reviewed, there were some violations noted. In 13 files with violations, MEDEP made accurate compliance and HPV determinations, based on inspections, stack test report reviews, and various other types of report reviews (one caveat being that one facility was initially identified as an HPV and shows up as an HPV in the ‘frozen data’, but upon further review by MEDEP, it was determined that the stack test violation did not meet the HPV criteria because the facility was not ‘major’ for the violating pollutant). HPV determinations are a collaborative effort between MEDEP and EPA. On an ongoing basis, at a minimum once per quarter, MEDEP and EPA discuss potential HPVs. The ultimate HPV determinations are mutually agreed upon by both MEDEP and EPA.</p> <p>In the 12 files reviewed without violations, the compliance determinations appeared accurate based on the CMR reports, where applicable, or other information found in the file.</p> <p>A comparison of Metric 7b1 of the DMA with the MEDEP information for this metric indicates that MEDEP did not change the compliance status from “in compliance” to “in violation” for 4 out of 7 facilities issued informal enforcement actions. In past SRF reviews, EPA Region I recommended that minor violations or deviations (e.g. where a facility is required to record the pressure drop across a baghouse on a daily basis and failed to record the pressure drop on one day for the entire year) that were quickly resolved and where no formal enforcement was to be taken did not warrant a change in the compliance status to “in violation” since the violating facility had already returned or would quickly return to compliance. In these instances, the Region felt there was an unnecessary burden for data entry personnel to change the compliance status for such a short period of time (typically less than 30 days). A closer look at the</p>

	<p>information for these 4 facilities indicates that the violations were very minor in nature and that MEDEP was acting on EPA’s suggestion. Therefore, the amount of alleged violations reported per informal enforcement action should be 3 out of 3 (100%) (discounting the 4 violations that did not require a compliance status change).</p>																														
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>7a Accuracy of compliance determinations</td> <td>100%</td> <td></td> <td>25</td> <td>25</td> <td>100%</td> </tr> <tr> <td>7b1 Violations reported per informal actions</td> <td>100%</td> <td>59.5%</td> <td>3</td> <td>3</td> <td>100%</td> </tr> <tr> <td>8a HPV discovery rate at majors</td> <td></td> <td>4%</td> <td>1</td> <td>58</td> <td>1.7%</td> </tr> <tr> <td>8c Verify the accuracy of HPV determinations</td> <td>100%</td> <td></td> <td>13</td> <td>13</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a Accuracy of compliance determinations	100%		25	25	100%	7b1 Violations reported per informal actions	100%	59.5%	3	3	100%	8a HPV discovery rate at majors		4%	1	58	1.7%	8c Verify the accuracy of HPV determinations	100%		13	13	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																										
7a Accuracy of compliance determinations	100%		25	25	100%																										
7b1 Violations reported per informal actions	100%	59.5%	3	3	100%																										
8a HPV discovery rate at majors		4%	1	58	1.7%																										
8c Verify the accuracy of HPV determinations	100%		13	13	100%																										
State Response	<p>Although there was no recommendation the High Priority Violation (HPV) assessment is changing and the Bureau will work with EPA on implementing changes. The Bureau will also be more diligent in putting the appropriate data into the system.</p>																														
Recommendation	<p>None.</p>																														

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations
Summary	<p>MEDEP does an excellent job of taking appropriate enforcement. In some instances, for good reason, MEDEP has been unable to take timely enforcement action. MEDEP also does an excellent job of providing ‘early warning notice’ to facilities with violations to expedite their return to compliance.</p>
Explanation	<p>MEDEP took informal and/or formal enforcement actions against 11 out of the 25 facilities in the files reviewed and 11 out of 13 facilities found with violations. In the two cases where violations were found and no enforcement action has been taken to date there was good reason. In one case, the facility had requested an alternative compliance demonstration from EPA after it had failed a methanol destruction test pertaining to the Pulp and Paper NESHAP. EPA has yet to make a determination whether to approve the facility’s request and thus all enforcement is on hold. In the second case, the facility had submitted a request with its rationale for removing the particulate matter limits for its scrubbers from its license, after it had failed stack tests for the same pollutant. MEDEP licensing staff still need to complete their review of this submission and make a determination as to whether the particulate matter limit can be removed from the license. As such, enforcement is on hold until a final decision is made by the MEDEP licensing staff.</p> <p>A total of 11 informal and 5 formal enforcement actions were taken against the 11 facilities with actionable violations. For the 11 facilities with violations where enforcement was taken, 11 of the 11 violations included corrective actions to be taken in the informal enforcement stage, or in some cases, corrective action was taken even before informal enforcement was taken. In 11 out of the 11 actionable violations reviewed, the violating facility had returned to compliance prior to any formal enforcement being taken, if applicable. MEDEP should be commended for its continued use of an ‘early warning notice’ to violators to help expedite their return to compliance. This has been considered a ‘Good Practice’ in earlier SRF Reviews.</p> <p>Metric 10a of the DMA indicates that MEDEP met the timeliness goal of addressing HPVs (within 270 days of ‘Day Zero’) in 2 out of 4 cases. Another HPV was initially identified as an HPV by MEDEP in FY 2013, but not identified as an HPV to EPA until FY 2014. Since this facility was one of the files reviewed, EPA will also include this HPV in Metric 10a.</p>

One of the 5 HPVs reviewed was identified in FY 2011. Two of the 5 HPVs were identified in FY 2012, and 2 of the 5 HPVs were identified in FY 2013. All 5 HPVs were reviewed as part of the SRF file review for continuity purposes because some relevant information such as addressing and/or resolving actions occurred during FY 2013.

MEDEP addressed 3 out of the 5 (60%) identified HPVs from the file review in a timely manner (within 270 days of ‘Day Zero’). One of the HPVs that was not addressed in a timely manner was addressed 623 days after ‘Day Zero’. The reason this HPV was not addressed in a timely manner is because there was a lot of back-and-forth discussion between the facility and the MEDEP regarding the size of the penalty, the nature and duration of the violations, and especially regarding the Supplemental Environmental Project that was ultimately approved and implemented in this case. This case was ultimately handled by the MEDEP Commissioner’s Office for resolution. The reason that the second HPV that was not addressed in a timely manner was due to a lot of settlement negotiations between MEDEP and the U.S. Navy. It is uncommon for a New England state to take enforcement against the federal government, and although the HPV was not addressed until 329 days after ‘Day Zero’, the MEDEP should be commended for taking enforcement action. Although only 60% of the HPVs were addressed in a timely manner, EPA believes the extenuating circumstances surrounding the two HPVs not addressed in a timely manner, should not impact EPA’s finding of ‘Meets or Exceeds Expectations’ for this Element.

For the numerator in Metric 9a below, corrective action was always taken prior to the formal enforcement action stage and thus the numerator will assume that corrective action was taken in the formal enforcement responses. For the numerator and denominator in Metric 10a below, the HPV information from the SRF file review was used rather than the HPV data from the DMA.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%		5	5	100%
	10a Timely action taken to address HPVs		67.5%	3	5	60%
State Response	The Bureau will continue to deal with enforcement actions as appropriate.					
Recommendation	None.					

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations																													
Summary	MEDEP does an excellent job of calculating the gravity portion of its penalties and, for all applicable files reviewed, does evaluate whether there is any economic benefit. In addition, MEDEP does an excellent job of documenting the difference between initial and final penalty amounts, and documenting that penalties have been collected.																													
Explanation	<p>A total of 5 out of the 25 files reviewed included penalties. One of the penalties was paid in FY 2014, but was reviewed for continuity purposes. In all 5 penalty cases, MEDEP calculated the gravity portion of the penalty according to its penalty policy and had documentation in the file that economic benefit was evaluated. In each of the 5 cases, MEDEP determined that economic benefit was insignificant and would not be assessed as part of the penalty. EPA agrees with MEDEP’s assessment in these five cases.</p> <p>Three out of the 5 penalty cases had the initial penalty reduced, and 2 cases did not have a penalty reduction. For the 3 penalty cases with a penalty reduction, MEDEP had a completed penalty justification memo in the enforcement file that offered general rationalizations for why the penalty was reduced (e.g., litigation risk, good faith/cooperation, etc.).</p> <p>For each of the 5 penalty cases, documentation was found in the enforcement file indicating that the penalty had been paid in full. For the one case where a Supplemental Environmental Project was undertaken, there was documentation in the file that the project had been completed to MEDEP’s satisfaction.</p>																													
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations include gravity and economic benefit</td> <td>100%</td> <td></td> <td>5</td> <td>5</td> <td>100%</td> </tr> <tr> <td>12a Documentation on difference between initial and final penalty</td> <td>100%</td> <td></td> <td>3</td> <td>3</td> <td>100%</td> </tr> <tr> <td>12b Penalties collected</td> <td>100%</td> <td></td> <td>5</td> <td>5</td> <td>100%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations include gravity and economic benefit	100%		5	5	100%	12a Documentation on difference between initial and final penalty	100%		3	3	100%	12b Penalties collected	100%		5	5	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
11a Penalty calculations include gravity and economic benefit	100%		5	5	100%																									
12a Documentation on difference between initial and final penalty	100%		3	3	100%																									
12b Penalties collected	100%		5	5	100%																									
State Response	The Bureau will continue to assess the appropriateness of the enforcement action as it has in the past.																													
Recommendation	None.																													

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	MEDEP does an excellent job maintaining accurate data and reporting it in a timely manner into the national database. During the time periods reviewed, inspection counts, documentation of violations and enforcement actions were accurate according to the file reviews, file review metrics and the Data Metric Analysis (DMA).					
Explanation	Twenty-three files were selected and reviewed to determine the completeness of the minimum data requirements. All of the selected files were accurately represented in the national database.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data	100%		23	23	100%
State response	MEDEP concurs with the EPA’s findings.					
Recommendation	None					

RCRA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations
Summary	<p>Twenty-three inspection files were reviewed. In each instance, the files for these inspections included an appropriate level of detail to document the observations and findings.</p> <p>MEDEP routinely provides inspection targets as requested to the EPA, some of which include LQGs. The combined LQG inspection efforts of EPA and MEDEP approaches 95%. In MEDEP's case, the 100% goal will likely never be achieved, since some of MEDEP's LQG universe include facilities that are not always active, and therefore not always good inspection targets.</p> <p>Additionally, MEDEP spends considerable resources conducting inspections at generator categories other than LQGs.</p>
Explanation	<p>Each reviewed file included facility descriptions, photographs when appropriate, and supporting information including maps, facility-diagrams, manifest history summaries, and sufficiently detailed descriptions of production processes.</p> <p>In all of the cases, the violations that ultimately cited were sufficiently supported in the trip report and inspection checklists. (MEDEP routinely uses an inspection checklist in the field, and then uses it to complete a narrative trip report.) MEDEP's inspection procedures ensure that inspectors are completely evaluating each RCRA program element.</p> <p>Additionally, MEDEP has a strong working relationship with the EPA RCRA inspection program in Region 1, and routinely provides, as requested by the EPA RCRA program, inspection targets that may include LQGs. When accounting for the combined efforts of MEDEP and the EPA RCRA inspection program, the 100% 5-year inspection goal, is 94.5%, very close to the national 100% goal. (In some instances, MEDEP has specific knowledge about the operational status of some of its LQG facilities, and when appropriate, considers this information in assessing whether an LQG is a good candidate for an inspection during the 5-year period. If an LQG is not operational, or inactive, MEDEP may decide that they are not good inspection candidates, and may purposely not be visited within the 5-year LQG inspection cycle).</p> <p>A review of Metrics 5a, 5b and 5c of the DMA and relevant RCRAInfo data shows that MEDEP met or exceeded the national average in each metric. Further, MEDEP spends a considerable amount of time and</p>

effort in inspecting non-notifiers, following-up on all citizen-complaints, and in conducting inspections at conditionally-exempt small quantity generators (53 inspections in the last 5 years), and small quantity generators (72 inspections in the last 5 years).

Of the twenty-three inspection reports completed during the time period of this SRF, MEDEP had a final trip report completed within a very timely average of 38 days.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a Two-year inspection coverage of operating TSDFs	100%		2	2	100%
5b Annual inspection coverage of LQGs	20%	21%	15	55	27.3%	
5c Five-year inspection coverage of LQGs	100%	66.6%	46	55	83.6%	
6a Inspection reports complete and sufficient to determine compliance	100%		23	23	100%	
6b Timeliness of inspection report completion	100%		23	23	100%	

State response	MEDEP concurs with the EPA’s findings.
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Recommendation	None
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RCRA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations					
Summary	MEDEP does an excellent job of documenting compliance status and determining violations, and documenting the observed violations in their inspection records and enforcement responses.					
Explanation	Each of the 23 files reviewed had accurate and complete descriptions of the violations observed during the inspection and had adequate documentation to support MEDEP’s compliance determinations. MEDEP finds violations regularly during their inspections.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations	100%		23	23	100%
State Response	MEDEP concurs with the EPA’s findings.					
Recommendation	None					

RCRA Element 3 — Violations

Finding 3-2	Area for State Improvement						
Summary	A review of the selected case files and the DMA indicates that MEDEP did not make an appropriate SNC determination in 3 of the 23 enforcement cases reviewed.						
Explanation	<p>Twenty of the 23 inspections reviewed had appropriate determinations made on their SNC status, but in three of the twenty-three files reviewed, MEDEP did not make an appropriate SNC determination.</p> <p>In one of these three instances, the company had a history of non-compliance, and MEDEP’s inspection revealed a number of violations that had been previously cited, and enforced with formal enforcement that included a penalty. In the two other instances, MEDEP documented an actual release of hazardous waste, along with other significant violations. In one of these two facilities, MEDEP also had record of an established history of non-compliance at the facility, with significant repeat violations.</p> <p>In one additional instance, MEDEP did make an appropriate SNC determination, but did not follow-up with a formal enforcement action, even though the files indicated that formal enforcement was recommended.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	8c Appropriate SNC determinations		100%		20	23	86.9%
State Response	<p>In the first of the instances referenced by EPA, the violations which had been previously cited were relatively minor in nature and scope and primarily had occurred over 10 years prior to the FY13 inspection. Under Maine’s penalties statutes, violations are considered repeat violations only if they reoccurred within the 5 preceding years. The FY13 violations were all corrected by the company at the time of the inspection or shortly thereafter and all were corrected prior to the issuance of the NOV, which was issued in a very timely manner (i.e. within 60 days of the inspection). Given these circumstances, MEDEP determined that a formal enforcement action was not warranted.</p> <p>EPA indicates that in two instances “MEDEP documented an actual release of hazardous waste”. In one of these instances, the discharge was minimal, consisting primarily of crystalized residues on a tank and tank valve, the company had filed a Spill Control and Clean-up Plan pursuant</p>						

to 38 M.R.S.A. § 1318-C, and MEDEP had discussed the case-specifics with the Office of Attorney General, which indicated it was not supportive of a discharge citation under Maine's statutes given the circumstances involved. This was documented in the file. In addition, the company addressed most of the violations prior to the issuance of the Notice of Violation. Given these circumstances, MEDEP determined that a formal enforcement action was not warranted.

In the other instance in which EPA indicates that "MEDEP documented an actual release of hazardous waste", there was in fact no release. Instead, there was an instance of treatment of hazardous waste by mixing or dilution. The mixture (less than 5 gallons) had been sampled by the company to ensure that it was not hazardous waste at the time of its disposal as non-hazardous waste. The company was cited for treatment without a license and corrected its practice to gain compliance. The remaining citations were relatively minor in nature and scope, involving no more than three small containers and 8 gallons of waste in aggregate. The company corrected the violations in a timely and cooperative manner. Under the circumstances, MEDEP determined that a formal enforcement action was not warranted.

In one additional instance, EPA indicates that MEDEP did make an appropriate SNC determination, but did not follow-up with a formal enforcement action, even though the file indicated formal enforcement was recommended. Regarding this last instance, senior managers did not concur that formal enforcement was necessary in light of the violations and requested additional assistance measures be offered to the generator.

MEDEP does not concur with EPA's comments in regard to the first three instances and with EPA's recommendations. MEDEP does agree to submit for EPA review and comment, a description of the process used to identify SNC's.

Region 1's Response to MEDEP's comments

In light of the MEDEP comments EPA has re-reviewed that collected records for the three cases that are subject to this comment and believes that the Element#3 response should remain as originally stated. EPA considers the designation of SNC important as it assists in addressing the most serious violators with timely, visible and effective enforcement actions. This designation (along with the subsequent enforcement action) also helps to return the violator to compliance as expeditiously as possible, as well as deter future or potential non-compliance.

In the second instance the company has a history of non-compliance, with violations that were observed by MEDEP in both 2008 and again, in 2013. MEDEP has not taken any formal enforcement actions at this facility. In 2008, MEDEP identified 10 violations, but the file does not designate if the violations are class I violations or class II violations, although many would typically be viewed as class I violations. In 2012, MEDEP identified significant class I-type violations, including treatment without a license, failure to minimize the potential for a release, waste determinations, failure to maintain a training plan, failure to update aid agreements, and a failure to label hazardous waste containers. EPA believes that this facility is a repeat violator with violations that deviate substantially from the RCRA requirements, and that it also has shown a history of non-compliance that falls within MEDEP's HWPPG as a facility which should have been designated as a SNC and followed up with formal enforcement.

In the third instance MEDEP determined that the facility was mixing TCLP sludge with non-hazardous waste and shipping it off as non-regulated. EPA believes that there is still a strong likelihood that this activity still constituted a release of a hazardous waste, since the LDR treatment standards would need to have also been met. During review of the MEDEP case file for this facility, there were no analytical results to document the result of the facility's illegal treatment. In order to be able to say that there was no potential release to the environment, these results would not only have to show that the waste did not meet the definition of a hazardous waste, but also, that the treated waste met or exceeded all of the relevant LDR treatment standards. There was no record in the file that indicated that LDR treatment standards were met. Additionally, treatment of hazardous waste, without a permit, is a significant violation, because it circumvents the entire hazardous waste treatment facility permitting process. This illegal treatment was being done by a company that is in the business of analytical testing, that also, is sophisticated enough to have known that hazardous waste cannot be treated without first obtaining a hazardous waste permit.

In the final instance MEDEP did make an appropriate SNC designation and the company should have been issued a formal action with a penalty. Given the serious nature of the violations compliance assistance is not an appropriate substitution for a formal enforcement action.

EPA agrees with MEDEP's recommendation to submit for EPA review and comment, a description of the process used to identify SNC's.

Recommendation

MEDEP's current enforcement documentation includes a sign-off and recommendation on whether a violator is a SV or a SNC.

By January 31, 2016 MEDEP should provide training to inspectors making SNC determinations that emphasizes the need to evaluate a facility's history of non-compliance, and any instances where actual releases of hazardous waste have been observed, and to include these factors into determining the SNC status of an inspected facility.

By January 31, 2016, MEDEP RCRA should modify the existing enforcement documentation to ensure that a system is in place that includes a sign-off by the appropriate management personnel for instances when the management does not concur with RCRA Technical staff's enforcement recommendation. This sign-off sheet should be included in the case file.

By March 31, 2016, ME DEP should send an email/memo to EPA when both of these actions have been completed.

RCRA Element 4 — Enforcement

Finding 4-1	Area for State Attention						
Summary	MEDEP’s enforcement actions generally return facilities to compliance in a timely manner.						
Explanation	MEDEP’s overall average length of time for issuing a formal action from day zero was 148 days, well before 360-days. As discussed further in Element 4, Finding 4-2, MEDEP’s practice of issuing NOVs, in advance of formal enforcement, helps to achieve timely compliance to the violations cited, often before the formal enforcement is issued. In one of the files reviewed where MEDEP had determined a facility to be a SNC, MEDEP never issued formal enforcement action (also addressed below in Element 4, Finding 4-2). Also, in three instances, violators were determined to be Secondary Violators, when the violations warranted SNC determinations (previously discussed in Finding 3-2).						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	9a Enforcement that returns violators to compliance		100%		22	23	95.6%
	10a Timely enforcement taken to address SNC		80%	83.2%	5	6	83.3%
State Response	See MEDEP’s State Response comments for Finding 3-2. See also Region 1’s Response to MEDEP’s comments.						
Recommendation	See recommendation for Finding 3-2.						

RCRA Element 4 — Enforcement

Finding 4-2	Area for State Attention
Summary	<p>Of the twenty-three files reviewed, all inspections conducted by MEDEP found violations and had some level of enforcement issued by MEDEP. Seventeen of the twenty-three inspection files included non-formal enforcement, one was addressed with non-formal enforcement - with enforcement intent, and five were addressed with formal enforcement actions that included a financial penalty.</p>
Explanation	<p>MEDEP’s typical first step when violations are determined during an inspection, is to issue notice of violation (NOV). [For very minor issues, MEDEP may issue a letter of warning (LOW), but none of the selected twenty-three files that were reviewed were inspections that resulted in an LOW.]</p> <p>The NOV is an informal enforcement tool used by MEDEP to put a facility on notice of violations. When MEDEP has determined that violations are more significant, the NOV includes ‘enforcement intent’, which means that a more formal enforcement response is going to follow the initial NOV. By issuing an NOV shortly after an inspection, MEDEP has notified the facility to begin corrective measures to come into compliance, so that the facility does not have to wait for a formal enforcement response to be prepared before being notified of compliance issues.</p> <p>In one instance observed during the review of the twenty-three inspection files, MEDEP had conducted an inspection and issued an NOV ‘with enforcement intent’, but no formal enforcement was ever issued. This circumstance was not adequately explained in the reviewed files, but the reviewed files indicated that MEDEP’s technical staff had recommended formal enforcement to management, but for some reason, the formal action was not issued. Also, in this case, after more than a year, MEDEP had not yet reported into the national database that the violations had been addressed by the facility.</p> <p>Also, as previously detailed in Element 3, Finding 3-2, in three other instances, NOVs were issued for inspections that documented significant violations, without ever identifying the facility as a SNC. In these instances, MEDEP should have determined the facilities to be SNCs, based on the number and/or nature of the violations documented by MEDEP, and in all three instances, should have been followed up with formal enforcement. However, by issuing the NOV, MEDEP was at least</p>

	able to notify the facility of the violations, and require the facility to return to compliance. In each of these three instances, the facility came into compliance, even though MEDEP chose not to pursue a formal enforcement action. These three improper SNC determinations reduce to overall percentage for this metric (10b) to 82.6%.												
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>10b Appropriate enforcement taken to address violations</td> <td></td> <td></td> <td>19</td> <td>23</td> <td>82.6%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	10b Appropriate enforcement taken to address violations			19	23	82.6%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
10b Appropriate enforcement taken to address violations			19	23	82.6%								
State response	See MEDEP's State Response comments for Finding 3-2. See also Region 1's Response to MEDEP's comments.												
Recommendation	See recommendation for Finding 3-2.												

RCRA Element 5 — Penalties

Finding 5-1	Area for State Attention						
Summary	MEDEP uses a matrix and a table to summarize the gravity component of an assessed penalty. In each penalty case reviewed, where penalty documentation was in the file, BEN values were estimated by MEDEP’s staff. But in most cases, MEDEP does not adequately explain how the BEN values were estimated.						
Explanation	<p>MEDEP uses a penalty matrix approach to determine and document the potential for harm and extent of deviation of a violation, and brief narratives are included to explain the matrix selected. In one penalty case reviewed, no penalty documentation was included in the reviewed file. MEDEP’s penalty documentation does not explain why the specific value within the matrix range is chosen. For example, if the standard is the middle of the matrix, there should be a brief explanation when the standard middle value has not been chosen.</p> <p>In all the penalty memos reviewed, MEDEP has assessed BEN, when appropriate. But, it is generally not clear how the specific BEN values were estimated. (For example, if a shipping value is estimated, MEDEP should attempt to substantiate the estimate by either obtaining an actual estimate from an operating transporter, or by using some other reasonable means to ensure that the value is a good estimation.)</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit				7	8	87.5%
State response	MEDEP uses a penalty matrix to determine and document penalties assessed in formal enforcement cases as specified in its “Hazardous Waste Program Penalty Guidance” (revised 4/30/2009). The Hazardous Waste Program Penalty Guidance (HWPPG) has been previously submitted to and reviewed by EPA as part of MEDEP’s Hazardous Waste Program documentation. MEDEP uses its HWPPG in lieu of the EPA RCRA Civil Penalty Policy. MEDEP’s HWPPG incorporates penalty calculation concepts and a penalty matrix approach similar to the RCRA Civil Penalty Policy used by EPA. However, the HWPPG is a separate guidance document and differs from the RCRA Civil Penalty Policy in certain specific guidance areas. For example, the HWPPG does not prescribe written narratives for the penalties and does not prescribe selection of the mid-point of a matrix penalty range as a standard practice in penalty assessment. Instead, the HWPPG						

recognizes that the MEDEP assesses penalties for a wide variety of violations and circumstances, and that the penalty range within a specific matrix is sufficiently flexible to accommodate that variety of violations and circumstances. As such, designating the matrix mid-point as a standard penalty or starting point for any violation or any type of violator would not be appropriate.

As noted in EPA’s comments above, MEDEP does assess penalties for BEN (economic benefit), when appropriate. In each penalty calculation in which BEN is assessed, MEDEP does provide an explanation of the basis for the BEN assessment, including an estimate of costs avoided (e.g. hazardous waste transportation and disposal costs, etc.). The MEDEP BEN assessments are based upon reasonable or actual industry-based cost estimates. MEDEP believes that its descriptions of its BEN assessments are adequate. MEDEP does not concur with EPA’s comments or recommendations.

Region 1’s Response to MEDEP’s comments

According to the HWPPG, a fundamental aspect “is normalization of all cases using a defined set of criteria”. In order to be consistent with this goal it would be helpful to designate the use of a common starting point within each matrix range (such as the mid-point), but, then choose values above or below, based on case specifics. Otherwise, one person may begin by starting at the high point, and one at the low point—which doesn’t promote “normalizing”.

Additionally, EPA believes that its recommendation on a brief explanation of how BEN estimates have been determined is appropriate, and also is consistent with the overall HWPPG’s goal of normalization and a modification of its recommendation is not necessary.

Recommendation

By January 31, 2016, MEDEP should include penalty documentation that directs inspectors to include reference sources that have been used to estimate BEN costs in completed penalty calculations. Also, by January 31, 2016, MEDEP should include a standardized practice that directs inspectors to briefly describe why a range in penalty matrix cell is selected in their penalty determination documentation. For example, MEDEP could consider the mid-point of the penalty range to be the standard, with penalty justification language being added to the penalty calculation documentation when a calculation deviates from the mid-point of the selected penalty range. ME DEP should send an email/memo to EPA when this action has been completed.

RCRA Element 5 — Penalties

Finding 5-2	Area for State Attention						
Summary	In most instances, MEDEP’s rationale for changes in penalties between the initial penalty and the final penalty collected is very general, and does not always fully explain the reason the extent of the reduction was determined.						
Explanation	<p>Also, in most instances, MEDEP describes penalty reductions in terms of percentage reductions, but does not adequately explain how or why the specific percentage reduction was determined.</p> <p>In many instances, MEDEP’s only explanation on why the initial penalty has been reduced is ‘because the facility came into quick compliance’, or ‘in the interest of settling the case’. In a number of instances, the initial penalty has been reduced 30 % or 40%, and the only explanation in the file was that the reduction was made ‘to settle the case’. Large penalty reductions without any substantive new factual information or litigative risk, undercuts the initial penalty assessment and the integrity of the penalty process. If penalty values are being routinely reduced simply for coming into compliance, the reduction should generally be limited. Larger penalty reductions based on new factual information or litigative risk may be appropriate, but MEDEP should provide better documentation describing the reasoning behind these larger reductions, if they are the determining factor for the reduction.</p> <p>MEDEP includes a photocopy of collected checks to document penalties collected.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	12a Documentation on difference between initial and final penalty		100%		7	8	87.5%
	12b Penalties collected				7	8	87.5%
State Response	Similar to the EPA’s RCRA Civil Penalty Policy, the HWPPG provides for consideration of mitigating/aggravating circumstances in establishing an initial assessed penalty. Also similar to the RCRA Civil Penalty Policy, the HWPPG provides for adjustments of up to 40%, in either a downward or upward adjustment depending on the mitigating or aggravating factors, in establishing an initial penalty prior to issuance to the violator. Nevertheless, the RCRA Civil Penalty Policy and the HWPPG are separate documents and may differ in regards to specific						

guidance details. As mentioned previously, MEDEP uses its HWPPG in lieu of the EPA RCRA Civil Penalty Policy. The penalty adjustments, made by MEDEP as part of its penalty calculations prior to issuance, do not undercut the initial penalty assessments or the integrity of the penalty process. In fact, the penalty adjustments are made in accordance with MEDEP's HWPPG.

As noted in EPA's comments above, MEDEP provides rationale and explanations for penalty reductions or changes. For cases in which penalty reductions are made after initial penalties are issued (i.e. as a result of negotiations with the company), MEDEP provides in the case files an explanation or description of any such penalty reductions, from initial penalties to final penalties. MEDEP believes those explanations and descriptions of the reductions and case circumstances are adequate. MEDEP does not concur with EPA's comments or recommendations.

Region 1's Response to MEDEP's comments

Similar to the EPA Penalty Policy, MEDEP's HWPPG allows for a reduction of initially proposed penalties for up to 40% of the gravity component. But, MEDEP routinely reduces penalties by the maximum 40% allowed, because the facility has voluntarily come into compliance or for settlement. While EPA understands that initially proposed penalties will typically be reduced as actions are attempted to be settled, the maximum allowed reduction should be typically be reserved for exceptional situations, factual uncertainties, or in cases with significant litigative risk, and not for compliance activities as basic and as mandatory as coming into compliance.

In terms of penalty documentation, some of the reviewed formal actions included brief explanations on factual situations that led to a penalty reduction, but others only included very brief statements such as "for settlement" or "because the facility came into compliance quickly". Again, in order to promote "normalization", penalty documentation should be consistent. Therefore, EPA recommends that all cases include at least a brief narrative explanation on the factors that led to the penalty reduction. EPA believes that this recommendation is appropriate, and also is consistent with the HWPPG's goal of normalization of MEDEP's penalty process.

Recommendation

By January 31, 2016, MEDEP should develop guidelines that describe what instances warrant small penalty reductions, such as 10%, and what instances warrant larger penalty reduction, such as 40%. MEDEP should send an email/memo to EPA when this action has been completed.

Appendix A

Background Information on Maine State Program and Review Process

NOTE: The background information provided below was provided by MEDEP. EPA included this information here without programmatic edits.

I. General Overview of Maine DEP Compliance and Enforcement Programs

The Maine Department of Environmental Protection (“MEDEP” or “Department”) maintains a central office in Augusta and three regional offices which are located in Portland (Southern Maine), Bangor (Eastern Maine), and Presque Isle (Northern Maine). The Department is comprised of the Bureau of Air Quality (“BAQ”), Bureau of Land Quality (“BLQ”), Bureau of Water Quality (“BWQ”), Bureau of Remediation and Waste Management (“BRWM”), Office of the Commissioner (“OC”), and Board of Environmental Protection (“BEP”). The compliance and enforcement programs which are subject to review by the U.S. Environmental Protection Agency (“EPA”) reside in the bureaus as well as OC, *e.g.*, Air Quality is part of the BAQ; Wastewater Discharge is part of BWQ; Hazardous Waste Management is part of BRWM; and the Office of Innovation & Assistance (“OI&A”) resides in the OC.

The MEDEP Licensing, Compliance, and Enforcement Coordinator (“Enforcement Coordinator”) exists within the OC. This individual engages in general oversight of all compliance and enforcement programs within MEDEP, but is not functionally responsible for activity management of bureau staff. The day-to-day oversight provided by the Enforcement Coordinator involves case evaluation, procedure evaluation, settlement facilitation, strategic planning, liaison with the Department of the Attorney General (“AG”), multi-media activity coordination, and general assistance with any licensing, compliance, or enforcement program issue. The MEDEP Director of the OI&A also exists within the OC. This individual engages in general oversight and management of all technical assistance and innovative compliance initiatives within DEP.

A. *Bureau of Air Quality*

In the Bureau of Air Quality, the Compliance Section inspects both licensed and unlicensed sources and conducts complaint investigations. Unlicensed sources are required to be in compliance with air quality statutes and regulations.

The Compliance Section also provides technical assistance, pollution prevention assistance and engages in education and outreach activities. The Compliance Section is composed of seven FTE inspector positions and a compliance manager. Two inspectors are located in each regional office, with the exception of the Northern Regional Office which has one full time inspector. The compliance manager is located in the Augusta Office.

The enforcement/stack testing section consists of three FTEs, an Environmental Engineering Specialist, an Assistant Environmental Engineer, and a Senior Environmental Engineer, all located in the Augusta Office. All enforcement is done by the section. The enforcement section reports directly to the BAQ's Director of Licensing and Compliance.

B. Bureau of Remediation and Waste Management, Oil and Hazardous Waste Facilities Regulation Program

The Hazardous Waste compliance and enforcement programs primarily reside within the DEP's Division of Oil and Hazardous Waste Facilities Regulation in the BRWM. Hazardous waste enforcement staff are responsible for conducting compliance inspections, complaint investigations, formal enforcement actions, site investigation and remediation project oversight related to enforcement actions, education and outreach activities (e.g., compliance assistance and advisory opinions; generator seminars and regulatory presentations; compliance guidance handbook and fact sheet development and review; environmental leadership program reviews; Small Business Technical Assistance Program ("SBTAP") reviews), data management activities (e.g., manifest reviews; data entry and quality control reviews; administration, assistance and compilations of annual reports for generators and facilities; biennial report to legislature), hazardous waste and waste oil transporter inspection, enforcement, and administration activities (e.g., transporter quarterly report reviews and fee audits), universal waste management inspection, enforcement, and administration activities (e.g., universal waste quarterly report audits), and other regulatory support activities (e.g., report assistance; policy development and implementation; hazardous waste and universal waste initiatives; rule-making reviews for hazardous matter, hazardous waste, universal waste, and waste oil; strategic planning and federal grant administration).

The current staff includes a unit manager, four oil and hazardous materials specialists (inspectors responsible for inspections and related enforcement activities), one environmental specialist (inspector responsible for inspections and related enforcement activities), and two environmental specialists (half-time responsible for inspections and related enforcement activities and half-time responsible for data management, administration and related enforcement activities for the hazardous waste and waste oil transporter program and universal waste program). The unit manager, two full-time enforcement inspectors, and one of the half-time enforcement/half-time data management/regulatory administration positions are located in the Augusta Office. Two full-time enforcement inspectors are located in the Southern Maine Regional Office in Portland. One full-time enforcement inspector and one of the half-time enforcement/half-time data management/regulatory administration positions are located in the Eastern Maine Regional Office in Bangor. The unit reports to the division director located in Augusta.

C. Bureau of Water Quality, Wastewater and Stormwater

Maine's MEPDES Wastewater Discharge program and the MEPDES Stormwater program is managed by the Division of Water Quality Management ("DWQM") in the BWQ. The program includes Wastewater Compliance/Technical Assistance ("CTA"), Stormwater, and Enforcement sections. The compliance staff of the CTA Section (14 FTEs) conducts all facility inspections, renders preliminary technical assistance, and handles initial compliance contacts and most routine communications with treatment facilities on regulatory and performance issues. These contacts typically include informal efforts (e.g., plant inspections, telephone contacts, troubleshooting) to address minor violations or conditions that may lead to violations if left

unresolved. The compliance staff of the Stormwater unit (5 FTEs) perform similar duties for all MEPDES stormwater facilities. The Enforcement Unit (3 FTEs) addresses situations where enforcement actions are necessary to resolve violations and implement compliance schedules. The three sections also respond to citizen complaints received by the division and conduct focused investigations to identify and remove sanitary waste discharge sources, especially in waters where shell fishing or other high priority uses are impaired. Complaints arising from non-point source discharges, forestry activities, and other land use issues are addressed by the BLQ. The Wastewater Compliance, Stormwater, and Enforcement staff is assisted by the Technical Assistance staff of the CTA Section (2 FTEs). In addition to CTA, Stormwater, and Enforcement sections, there is also a MPDES permitting section (7 FTEs) and the State Revolving Fund group (9 FTEs) which distributes low interest or no interest loans to municipalities for upgrades/repairs to their wastewater treatment plant and/or collection systems. In addition to approximately 400 traditional MEPDES/point source discharges and approximately 840 MEPDES Stormwater facilities, the DWQM regulates approximately 1,000 Over Board Discharges (“OBDs”), consisting of treated sanitary wastes from residential and commercial sources.

II. Legal Authorities

DEP Inspection Authority. Employees and agents of the MEDEP may enter any property at reasonable hours and enter any building with the consent of the property owner, occupant or agent, or pursuant to an administrative search warrant, in order to inspect the property or structure, take samples and conduct tests as appropriate to determine compliance with any laws administered by the DEP or the terms and conditions of any order, regulation, license, permit, approval or decision of the commissioner or of the board. *See* 38 M.R.S.A. § 347-C.

DEP Enforcement Authority - General. The MEDEP Commissioner may initiate an enforcement action when it appears that there is or has been a violation of environmental requirements. 38 M.R.S.A. § 347-A(1)(A). The statutorily authorized actions which may be initiated are: (1) negotiation of an administrative consent agreement; (2) referral to the Office of the Attorney General for civil or criminal prosecution; (3) scheduling and holding an administrative enforcement hearing; or (4) initiating a civil action in the Maine district court under Maine Rule of Civil Procedure 80K. *See generally* 38 M.R.S.A. § 347-A(1)(A). Parties to a Rule 80K prosecution may request mediation pursuant to 38 M.R.S.A. § 347-A(4)(E).

Before initiating any of these activities as a civil enforcement matter, the Commissioner is authorized and required to send the alleged violator a Notice of Violation (“NOV”). 38 M.R.S.A. § 347-A(1)(B). The Commissioner is not required to send an NOV prior to issuing an emergency order, referring an alleged violation to the AG for criminal prosecution, or in a matter requiring an immediate enforcement action. *Id.*

DEP Enforcement Hearing Authority. The Commissioner may conduct a hearing for the purpose of accepting documentary and testimonial evidence and determining the existence of alleged violations. After a hearing, or in the event the alleged violator fails to appear, the Commissioner makes findings of fact based on the record and, if a violation is found to exist, issues an order aimed at ending the violation. The person to whom an order is directed must immediately comply with the terms of that order. 38 M.R.S.A. § 347-A(2).

Commissioner's Emergency Order Authority. Whenever an investigation reveals a violation which is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the Commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. The person to whom the order is directed must immediately comply. The order may be appealed to the BEP for a hearing on the order, which must be held within seven working days after receipt of application. 38 M.R.S.A. § 347-A(3).

Restoration Authority. Maine courts may require restoration of an area affected by any action or inaction found to be in violation of environmental requirements to its condition prior to the violation, or as near thereto as possible, unless restoration activities will cause a threat or hazard to public health or safety; substantial environmental damage; or, a substantial injustice. 38 M.R.S.A. § 348(2).

AG Enforcement Authority - General. Violations of law and enforcement of licensing orders of the Commissioner or BEP may be enforced in Maine courts by the AG through injunctive proceedings, and civil or criminal actions. 38 M.R.S.A. §§ 347-A(5), 348(1).

Criminal Penalty Authority. Maine law establishes that the intentional, knowing, reckless, or criminally negligent violation of laws or orders administered by the MEDEP, and the disposal of more than 500 pounds or 100 cubic feet of "litter," are Class E crimes punishable by fines not less than \$2,500 nor more than \$25,000 for each day the violation, except that the minimum penalty for knowing violations is \$5,000 for each day of violation. 38 M.R.S.A. § 349(1).

Falsification and Tampering. A person may not knowingly make false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained by any provision of law administered by the MEDEP, or by any order, rule, license, permit, approval or decision of the MEDEP, or who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule, license, permit, approval or decision of the board or commissioner or who fails to comply with any information submittal required by the commissioner pursuant to an groundwater oil discharge clean-up, or uncontrolled hazardous waste site clean-up. 38 M.R.S.A. § 349(3).

Civil Penalty Authority. Maine Law subjects violators to civil monetary penalties for violating environmental requirements of not less than \$100 nor more than \$10,000 for each day that violation exists or, if the violation relates to hazardous waste, of not more than \$25,000 for each day the violation exists. 38 M.R.S.A. § 349(2). Monetary penalties may be obtained through an administrative consent agreement or court action. The Department does not have unilateral penalty authority. The maximum civil penalty for non-hazardous violations may be increased to \$25,000 for each day a violation exists if it is shown that the same party violated the same law within the preceding five (5) years. 38 M.R.S.A. § 349(6). Also, if the daily economic benefits of non-compliance exceed per-day maximum penalties, a penalty may then be assessed which does not exceed twice the economic benefit resulting from the violation. 38 M.R.S.A. § 349(8). The Commissioner may exempt from civil penalties certain reported air emissions or wastewater discharges in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. 38 M.R.S.A. § 349(9). A party performing a Supplemental Environmental Project ("SEP") may mitigate the final monetary

penalty paid by up to 80% of the assessed amount of the gravity penalty. 38 M.R.S.A. § 349(2-A). SEPs cannot be used to offset the economic benefit portion of a penalty.

III. Compliance and Enforcement Tools

MEDEP uses a variety of methods to evaluate compliance with Maine's environmental laws, including on-site inspections, periodic self-monitoring and reporting, and record reviews. In all cases, these evaluations are used to monitor compliance and document findings in a way that supports any subsequent necessary action. MEDEP compliance staff must document all compliance evaluations. This documentation may be in the form of memoranda, facility-related compliance data, or as a trip report when on-site evaluations are performed. The discovery of non-compliance during an on-site inspection should be documented with additional means, for example facility records, sampling and analysis, photographs or video recordings, or a combination of all these. Inspections documenting situations that appear to require corrective action should typically have exit interviews conducted and written documentation of the findings left with or sent to a responsible official.

Education and Outreach. The MEDEP offers education and outreach as a proactive means of helping the public understand, support, and comply with environmental laws, and to teach responsible environmental stewardship. Education and outreach is the responsibility of all MEDEP staff on a daily basis and is the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. It ranges from holding seminars that provide wide segments of the population with general information to targeting particular facilities, locations, ecosystems, or business sectors. Education and outreach is an effective tool for educating the public about new regulatory requirements or abating small, commonly observed violations. When a violation is discovered, education on how to comply and prevent recurrence is often an integral part of resolving that violation.

Voluntary Compliance. An underlying principle of environmental law assumes societal acceptance by the majority of citizens and therefore voluntary compliance. Likewise, the MEDEP expects environmental requirements to be complied with voluntarily. Entities must be proactive in their compliance efforts by evaluating plans and operations to determine whether environmental requirements apply. The State has enacted an environmental audit program pursuant to 38 M.R.S.A. §§ 349-L to 349-R which provides incentives to regulated entities that voluntarily report violations to the DEP in accordance with statutory requirements. In addition, the MEDEP has established a *Small Business Compliance Incentives Policy* to further encourage voluntary compliance and beyond compliance activities by providing incentives to entities that approach the MEDEP seeking regulatory and technical assistance. The MEDEP views an entity's voluntary compliance actions and overall environmental performance record when evaluating good-faith efforts to comply with environmental requirements.

Technical Assistance. Technical assistance is targeted education and outreach where the expertise of the MEDEP is used to help solve a particular environmental problem at a particular location. Technical assistance may be provided informally during an inspection or in a telephone call, or more formally through one of the MEDEP's technical assistance programs and designated technical assistance staff. Regulatory assistance, *i.e.*, helping entities to understand regulatory

requirements, is also a primary focus of the MEDEP and available as part of the Department's daily activities. MEDEP staff providing technical assistance has no authority to "waive" violations, and may not advocate actions inconsistent with applicable laws and standards.

Licensing. The MEDEP issues individual licenses that ensure environmental protection by addressing the unique operations existing at a regulated entity's site and facility. License provisions are clearly and concisely written to promote compliance and expedite any future compliance efforts. The licensee is responsible for understanding all provisions contained in their license. In this regard, the MEDEP provides draft licenses to applicants and expects potential licensees to determine the feasibility of conforming with all provisions contained in their license prior to accepting that license from the MEDEP. In addition, the licensee is responsible for ongoing compliance evaluations and immediately informing the MEDEP of any compliance problems. The MEDEP views immediate disclosure of compliance problems and immediate work to permanently resolve an issue as good-faith efforts that will be considered in determining an appropriate response. Failure to consistently evaluate compliance with license provisions and immediately disclose and correct license compliance problems increases the likelihood and severity of an enforcement response.

Enforcement. Regular inspections and enforcement of environmental requirements are key elements in gaining compliance. While a variety of tools exist for preventing and resolving compliance problems, the MEDEP may pursue formal, written, and legally binding resolutions to environmental violations where corrective action and/or penalties are appropriate. The MEDEP will select an appropriate course of action for enforcing Maine's environmental requirements based upon the facts of a case and the Department's *Non-Compliance Response Guidance*. As a result, the MEDEP may use any one tool, or combination of tools, as appropriate to achieve compliance with environmental requirements. The MEDEP's preference in resolving civil enforcement actions is to reach agreements as quickly as possible that: remediate environmental damage; restore natural resources to appropriate conditions; impose penalties that capture any economic benefit gained by a violator; and deter similar actions in the future. The tools employed to compel compliance include:

Letter of Warning. The MEDEP typically corresponds in writing with entities upon discovering non-compliance with environmental requirements. A Letter of Warning ("LOW") is sent to provide regulated parties with information regarding an alleged violation where the matter is relatively minor and further civil enforcement action is not anticipated if the violation is promptly corrected. A LOW identifies the violation(s) and may contain a schedule for coming into compliance. Where a LOW has been sent, the MEDEP views prompt correction and avoidance of repeat violations as essential. A history of LOWs, or a LOW that is not followed with prompt corrective action, increases the likelihood that additional enforcement actions will be pursued.

Notice of Violation. The MEDEP uses a NOV where a significant² violation exists and the probability of future civil enforcement action is substantial. Maine law requires the MEDEP to issue a NOV prior to initiating a civil action that will include enforceable compliance schedules and penalties. A NOV will at a minimum describe the alleged violation, cite to statutory,

² The term "significant" is used here with in common understanding and is not intended as a reference to the term "significant non-complier" used by EPA.

regulatory, permit, and license provisions alleged to have been violated, and provide a deadline for performing corrective action and response to the notice. Performing the corrective action identified in a NOV does not preclude additional civil enforcement actions or additional remedial work. The MEDEP views prompt corrective action where a NOV has been sent and avoidance of repeat violations as essential.

Administrative Consent Agreements. The MEDEP pursues voluntary agreements for corrective action and/or penalties to resolve environmental violations. The MEDEP provides Administrative Consent Agreements (“ACAs”) to alleged violators in order to achieve administrative settlement rather than pursue an action in court. The MEDEP negotiates, and the AG, Commissioner, and violators enter into, ACAs to achieve final resolution of pending civil enforcement actions. An ACA is a legally binding contract between a violator and the State of Maine that prescribes appropriate penalties and corrective actions. An ACA offers resolution without the time and expense of a court action.

80K Actions. Maine Law authorizes certified MEDEP staff to pursue violations of environmental requirements in District Court under Maine Rule of Civil Procedure 80K with the prior approval of the Office of the Attorney General. These court actions are typically filed on behalf of the MEDEP where administrative settlement efforts have failed. The goals of pursuing civil enforcement actions under Rule 80K are to efficiently and effectively resolve violations without the relatively significant expense and inefficiency of pursuing actions in Superior Court.

Mediation. Maine law authorizes parties to a Rule 80K prosecution to request mediation. 38 M.R.S.A. § 347-A(4)(E). To further our efforts in reaching consensual resolution of civil enforcement actions in the most efficient and effective manner, the MEDEP requests mediation in 80K cases in each appropriate circumstance.

Supplemental Environmental Projects. Pursuant to authority provided by Maine statute, the MEDEP and AG may consent to a violator performing an environmentally beneficial project, or so-called Supplemental Environmental Project (“SEP”), as part of resolving an enforcement action. 38 M.R.S.A. § 349(2-A). While Maine’s SEP statute is conceptually similar to EPA’s policy on supplemental environmental projects, some of the requirements and considerations in the statute differ from the EPA policy. SEPs are not a tool for bringing a violator into compliance. Projects may be performed to mitigate up to 80% of the total penalty amount, excluding economic benefit.

Emergency orders. Whenever an investigation reveals a violation which is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. The person to whom the order is directed must immediately comply. The order may not be appealed to the Superior Court but the person may apply to the BEP for a hearing on the order which shall be held by the board within seven working days after receipt of application.

Enforcement Hearings. The Commissioner may conduct a hearing for the purpose of accepting documentary and testimonial evidence regarding alleged violations. After a hearing, or in the event the alleged violator fails to appear, the BEP or Commissioner makes findings of fact based on the record and, if a violation is found to exist, issues an order aimed at ending the violation. The person to whom an order is directed must immediately comply with the terms of that order.

Case Referral to the Department of the Attorney General. The Office of the Attorney General is constitutionally responsible for acting as the MEDEP's legal counsel and is the chief law enforcement agency for the State of Maine. The MEDEP refers civil enforcement actions to the AG when administrative settlement can't be reached and serious violations exist, immediate injunctive relief is sought, and/or significant legal issues are in dispute. Criminal enforcement actions are automatically referred to the AG for pursuit in an appropriate judicial forum.

Enforcement by Federal, State, and Local Entities. Independent authority to enforce certain environmental laws exists in federal, state, and local authorities, including the AG. The MEDEP works closely with these entities and, where appropriate, pursues joint enforcement actions. Every effort is made to coordinate enforcement actions among federal, state, and local entities.

IV. Compliance and Enforcement Process

The first step in addressing circumstances demonstrating non-compliance is a full investigation of the matter by appropriate program staff (usually the inspector discovering non-compliance). This investigation involves, at a minimum, gathering background information on the violation, its causes, the impacts, and potential corrective actions from file reviews, discussions with other staff members, and direct communication with the regulated entity. Most programs conduct periodic meetings to discuss broadly discovered circumstances of non-compliance. The MEDEP Enforcement Coordinator often attends each program's periodic non-compliance review session, and always reviews meeting minutes, in order to provide multi-media oversight of response decisions. In addition to considerations based on MEDEP policy, programs weigh competing priorities, precedent values, and other program responsibilities when decisions on specific activities are ultimately made.

All DEP programs follow the principles captured in the Department-wide *Non-Compliance Response Guidance*, as implemented in program-specific policies based on the same principles when evaluating further actions after discovering non-compliance. Programs also consider the principles contained in the BEP's 1990 *Enforcement Guidance Document: Administrative Consent Agreement Policy*. While the compliance tool, or combination of tools, that may be applied in response to a violation varies according to a number of factors, the MEDEP's goals are always to gain compliance as quickly as possible, protect the environment, and treat each violator in an evenhanded manner. The following questions and analysis provide the general guidance DEP follows in determining an appropriate response to a violation. These considerations are cumulative and not applied in isolation.

What is the environmental impact/significance of the violation? When the area impacted by a violation is large or particularly sensitive, the likelihood of an enforcement response is high and the severity of that response increases. Likewise, where actual environmental damage exists or the violation has continued for an extended period of time, the likelihood of an enforcement response is high and the severity of that response increases. Technical paperwork violations, so-called "paper violations" (*e.g.*, failure to submit and maintain required records, monitor downtime, or renew a license) are significant to the extent they affect the MEDEP's ability to determine whether a company has been in compliance, the level of non-compliance, or the extent and length of an adverse environmental impact resulting from non-compliance. Failure to comply with other requirements, such as training, will be evaluated on the potential effect the failure can have on a facility's ability to maintain compliance. Other factors related to environmental impacts and violation significance that will determine the nature of an

enforcement response include: whether the activity which caused the violation was inherently dangerous or the pollutants involved are hazardous; how far beyond standards or license limits the activity was; the number of violations involved; and whether there were any potential public health risks or environmental risks posed by the violation.

Under what circumstances were the violations discovered? Where the MEDEP discovers non-compliance during an announced or unannounced compliance inspection or as a result of investigating complaints from the public, the likelihood of an enforcement response is significantly greater than where a party voluntarily requests compliance or technical assistance, or where the results of an internal or third party compliance assessment are voluntarily reported. The State through its *Environmental Audit Program*, and the MEDEP through its *Small Business Compliance Incentives Policy*, protect entities that voluntarily approach the Department seeking regulatory and technical assistance from civil penalties. A demonstrated commitment to voluntary compliance and a strong overall environmental compliance record diminish the likelihood or severity of an enforcement response. The MEDEP views immediate disclosure of compliance problems and immediate work to permanently resolve issues as good-faith efforts that will be considered in determining an appropriate compliance response. The failure to consistently evaluate compliance with regulatory provisions and immediately disclose and correct compliance problems increases the likelihood and severity of an enforcement response.

What were the causes and circumstances of the violations? While the MEDEP intends to be proactive in providing education and outreach, the Department expects regulated parties to know and comply with legal requirements. In this regard, violators that knew or should have known legal requirements or that a violation was reasonably foreseeable are more likely to face an enforcement response from the MEDEP. For example, if a person ignores relevant training or technical assistance, is in a business heavily and directly regulated by the MEDEP (e.g., contractors, large industrial facility operators, businesses involved with hazardous waste, landfill operators), has a history of similar compliance problems, or it is otherwise evident that they were in a position to avoid the violation, the likelihood of an enforcement response is high and the severity of that response increases, regardless of environmental impact. However, if a violation is inadvertent, involves a recently adopted regulatory requirement, is not part of a pattern or history of non-compliance, could not have been prevented, or is mitigated and reported immediately upon discovery, then the likelihood of an enforcement response is reduced. A demonstrated commitment to voluntary compliance and a strong overall environmental compliance record also diminish the likelihood or severity of an enforcement response.

What action was taken once there was awareness of a violation? As with all laws, environmental laws rely heavily on voluntary compliance and self-reporting. If a violation is reported immediately, environmental damage is restored immediately, and corrective action is taken immediately, the likelihood or severity of an enforcement response diminishes. Likewise, the quality of those actions, whether they were taken before or after MEDEP involvement, whether or not they truly cured any immediate problem, and/or were designed to prevent future problems are all factors that determine a compliance response. A violator that permanently removes the potential for recurrence will be considered to have demonstrated a greater willingness to comply than a violator applying a temporary fix on a problem that resulted in non-compliance.

Is there a financial gain associated with the violation? The MEDEP will examine whether there was any economic benefit (e.g., avoided disposal costs, cost of required pollution control equipment, license fees) that accrued to the violator as a result of the violation. In those instances where a significant economic benefit is associated with non-compliance, the likelihood that the DEP will pursue an enforcement response to assess penalties that at least recover any economic benefit is high. Recovery of an economic benefit “levels the playing field” between those companies or individuals that are in compliance and those that are out of compliance.

What is the regulated party’s overall environmental record? The MEDEP will consider a violator’s environmental record in determining the nature of a compliance or enforcement response. This consideration will include aggregate performance in all media programs as well as any trend toward or away from overall compliance.

Appendix B

Data and File Review Metric Spreadsheets

SRF Round 3: CAA File Metric Calculation

State:

Date of On-Site Review: 12-16/05/2014

Review of FY 2013 Activity

#	Facility Name	Facility ID	2b	6a	6b	7a	8c	9a	10b	11a	12a	12b
1	Lane Construction (License #90)		Y	N	N	Y	Y	N/A	N/A	N/A	N/A	N/A
2	Western Polymer (Aroostook Starch)		Y	N	N	Y	N/A	N/A	N/A	N/A	N/A	N/A
3	Pineland Farms Potato Company		Y	Y	N	Y	N/A	N/A	N/A	N/A	N/A	N/A
4	Fraser Timber Limited (Nexfor Fraser Papers)		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
5	Florida Power and Light		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6	Gulf Oil		N	N/A	Y	Y	Y	Y	Y	Y	Y	Y
7	Burnham & Morrill, Co.		Y	N	N	Y	Y	N/A	N/A	N/A	N/A	N/A
8	Sabre Corp.		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
9	Verso Androscoggin, LLC		Y	N/A	N/A	Y	Y	N/A	N/A	N/A	N/A	N/A
10	Boralex Stratton Energy		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
11	Verso Androscoggin, LLC (Cogen Facility)		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
12	Huhtamaki Food Services		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
13	North End Composites		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
14	Hancock Lumber, Co.		N	Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A
15	SB Acquisitions, LLC		Y	N/A	N/A	Y	Y	N/A	N/A	N/A	N/A	N/A
16	Rumford Power		Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	N/A
17	Lincoln Paper & Tissue, LLC		Y	N/A	N/A	Y	Y	Y	Y	Y	N/A	Y
18	Red Shield Acquisitions (Old Town Fuel & Fiber)		Y	N/A	N/A	Y	Y	Y	Y	Y	Y	Y
19	Lane Construction (License #257)		N	N	N	Y	Y	N/A	N/A	N/A	N/A	N/A
20	Corinth Wood Pellet Corp.		N	Y	Y	Y	Y	N/A	N/A	N/A	N/A	N/A
21	Naval Computer & Telecommunication Station		Y	Y	Y	Y	Y	Y	Y	Y	N/A	Y
22	Bangor Hydro-Electric		Y	Y	N	Y	N/A	N/A	N/A	N/A	N/A	N/A
23	General Dynamics Ordnance & Tactical Systems		Y	Y	N	Y	Y	N/A	N/A	N/A	N/A	N/A
24	Praxair (Sermatech Coating Facility)		Y	N	N	Y	N/A	N/A	N/A	N/A	N/A	N/A

SRF Round 3: CAA File Metric Calculation

State:

Date of On-Site Review: 12-16/05/2014

Review of FY 2013 Activity

#	Facility Name	Facility ID	2b	6a	6b	7a	8c	9a	10b	11a	12a	12b
25	Gorham Sand & Gravel		Y	Y	N	Y	N/A	N/A	N/A	N/A	N/A	N/A
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SRF Round 3: CAA File Metric Initial Findings

State:							Review of FY 2013 Activity
CAA Metric #	CAA File Review Metric Description	Numerator	Denominator	Percentage	Goal	Initial Findings	Details
ELEMENT 1: DATA							
2b	Accurate MDR data in AFS	21	25	84.0%	100%	Area for State Attention	Of the 25 files reviewed, information was missing from 4 of the files as follows: Gull Oil - The retest with results code "passed" was not entered into AFS; Hancock Lumber - The Letter of Warning was not entered into AFS; For Lane Construction 257 - The FCE dated 7/15/13 was not entered into AFS; and, For Corinth Wood Pellets - The FCE dated 9/24/12 was not entered into AFS.
ELEMENT 2: INSPECTIONS							
6a	Documentation of FCE elements	15	20	75.0%	100%	Area for State Improvement	Although MEDEP inspectors do an excellent job of documenting FCE elements with its Title V sources, when it comes to many of its synthetic minor sources and true minor sources, the inspectors do not provide all the details needed to document the full complement of FCE elements.
6b	Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility	12	21	57.1%	100%	Area for State Improvement	Although MEDEP inspectors do an excellent job of documenting their compliance determinations in their CMR reports for Title V sources, when it comes to many of its synthetic minor sources and true minor sources, the inspectors do not always provide compliance determinations for all applicable equipment and regulations (i.e., fuel sulfur limits and annual fuel caps, opacity, and requirements regarding parts washers and spray booths.)
ELEMENT 3: VIOLATIONS							
7a	Accurate compliance determinations	25	25	100.0%	100%	Meets or Exceeds Requirements	The MEDEP inspectors are very knowledgeable and make accurate compliance determinations.
8c	Accurate HPV determinations	13	13	100.0%	100%	Meets or Exceeds Requirements	The MEDEP inspectors and enforcement staff are very knowledgeable and make accurate HPV determinations. There was one case, General Dynamics, that was initially added as an HPV, but upon further review by MEDEP, it was determined that this facility was added to the HPV list inaccurately since the facility was not major for the violating pollutant (particulate matter). This HPV was removed from the HPV list, but not until the FFY 2013 data was "frozen" thus it is still showing up, incorrectly, as an HPV.

SRF Round 3: CAA File Metric Initial Findings

State:							Review of FY 2013 Activity
CAA Metric #	CAA File Review Metric Description	Numerator	Denominator	Percentage	Goal	Initial Findings	Details
ELEMENT 4: ENFORCEMENT							
9a	Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame	5	5	100.0%	100%	Meets or Exceeds Requirements	MEDEP has a Noncompliance Review Committee that meets regularly to discuss violations. In addition, MEDEP inspectors issue prompt "Letters of Warning" to violating facilities that act as "early warning notices" to violating facilities so that, in most cases, violating facilities return to compliance prior to formal enforcement actions being taken.
10b	Appropriate enforcement responses for HPVs	5	5	100.0%	100%	Meets or Exceeds Requirements	In all cases reviewed regarding HPVs, MEDEP took appropriate enforcement, based on their penalty policy.
ELEMENT 5: PENALTIES							
11a	Penalty calculations reviewed that document gravity and economic benefit	5	5	100.0%	100%	Meets or Exceeds Requirements	In all enforcement cases reviewed, it was determined that MEDEP was calculating the gravity portion of the penalty according to their penalty policy and noting whether there was any economic benefit associated with the violations found. In all cases reviewed, the MEDEP had determined that there was little or no economic benefit, and therefore, no economic benefit was assessed in any of the cases reviewed. The EPA reviewer was in agreement with MEDEP's economic benefit determinations.
12a	Documentation of rationale for difference between initial penalty calculation and final penalty	3	3	100.0%	100%	Meets or Exceeds Requirements	In all cases where the initial penalty was reduced, there was documentation found in the file detailing the rationale for reducing the penalty.
12b	Penalties collected	5	5	100.0%	100%	Meets or Exceeds Requirements	In all cases where a penalty was assessed, there was documentation in the file that the full penalty had been collected. In addition, where SEPs were involved, there was documentation in the file, when applicable, that the SEP was deemed complete by MEDEP.
Finding Category Descriptions							
Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.							
Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.							
Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendation should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.							

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
1	Lane Construction (License #90)	2300300090	CMR report written in 8 days from inspection.	For low level violations that are resolved quickly and only result in a Letter of Warning, the MEDEP policy is to not change the compliance status to "in violation" in AFS since the sources return to compliance is imminent.	There was no documentation on if the AC Heater operated in calendar year 2013.
2	Western Polymer (Aroostook Starch)	2300300817	CMR report written in 11 days from inspection.	MEDEP files and DFR consistent.	There was no documentation that the fuel supplier certification records were reviewed.
3	Pineland Farms Potato Company	2300300911	CMR report written in 1 day from inspection.	MEDEP files and DFR consistent.	There was no documentation that the fuel supplier certification records were reviewed.
4	Fraser Timber Limited (Nexfor Fraser Papers)	2300360040	CMR report written in 8 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
1	Lane Construction (License #90)	The CMR report did not mention whether the AC Heater was complying with fuel use limits and sulfur in fuel limits.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An Accurate HPV determination was made. Not an HPV.	Corrective action taken prior to any enforcement action being taken by MEDEP. (Informal LOW only in this case.)
2	Western Polymer (Aroostook Starch)	Since there was no indication that the fuel supplier certification records were reviewed, there was no compliance determination made as to whether the facility boilers were complying with the sulfur content limit of 0.3%. In addition, there was no mention as to whether the applicable boilers were complying with NSPS Subpart Dc requirements	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An Accurate HPV determination was made. Not an HPV.	No violations found.
3	Pineland Farms Potato Company	Since there was no indication that the fuel supplier certification records were reviewed, there was no compliance determination made as to whether the facility was complying with the fuel sulfur content limit of 0.5%. In addition, there was no mention if the facility was meeting the annual cap of 219,900 mmbtu/yr.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An Accurate HPV determination was made. Not an HPV.	No violations found.
4	Fraser Timber Limited (Nexfor Fraser Papers)	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An Accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
1	Lane Construction (License #90)	Not an HPV.	N/A	N/A	N/A
2	Western Polymer (Aroostook Starch)	Not an HPV.	N/A	N/A	N/A
3	Pineland Farms Potato Company	Not an HPV.	N/A	N/A	N/A
4	Fraser Timber Limited (Nexfor Fraser Papers)	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:		Review of FY 2013 Activity			
#	Facility Name	Facility ID	General comments	2b comments	6a comments
5	Florida Power and Light	2300500018	CMR report written in 93 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.
6	Gulf Oil	2300500049	No CMR report for review period.	MEDEP files and DFR consistent, with the exception that the retest with passing results was not entered into AFS/ECHO.	N/A
7	Burnham & Morrill, Co.	2300500083	CMR report written 7 days from inspection.	MEDEP files and DFR consistent.	There was no documentation that the fuel supplier certification records were reviewed or that records/reports required by NSPS Subpart Dc were maintained/sent. In addition, no indication was made as to whether opacity records were reviewed regarding the facility's 2 boilers and 2 engines.
8	Sabre Corp.	2300500633	CMR report written 6 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
5	Florida Power and Light	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. This facility was a FFY '12 HPV add.	Corrective action taken prior to formal enforcement action being taken by MEDEP. Formal enforcement (Consent Agreement) was taken on 11/6/12.
6	Gulf Oil	N/A	An accurate compliance determination of "in violation" was made based on a failed stack test on the facility's vapor recovery unit.	An accurate HPV determination was made. This facility was a FFY '13 HPV add.	Corrective action taken prior to formal enforcement action being taken by MEDEP. Formal enforcement (Consent Agreement) was taken on 2/4/14.
7	Burnham & Morrill, Co.	Since there was no indication that the fuel supplier certification records were reviewed, there was no compliance determination made as to whether the facility was complying with the licensed fuel sulfur content limit. In addition, there was no mention as to whether the applicable boilers were complying with NSPS Subpart Dc requirements or whether the two boilers and two engines were meeting the licensed opacity requirements. Lastly, the CMR report did not provide compliance determinations for all parts washer requirements (some, but not all.)	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An accurate HPV determination was made. Not an HPV.	Corrective action taken prior to any enforcement action being taken by MEDEP. (Informal LOW only in this case.)
8	Sabre Corp.	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
5	Florida Power and Light	This was a FFY '12 HPV add. Timely and appropriate enforcement was taken by MEDEP. Case addressed and resolved in 142 days.	MEDEP followed their penalty policy for calculating the gravity portion of the penalty and there was documentation in the file that economic benefit was considered and determined to be insignificant.	The file includes documentation discussing the rationale for reducing the penalty from \$157,325 to \$25,825. Further information provided by the facility documented that the duration of the violations was 50 days rather than 157 days.	Copy of penalty check for \$25,825 found in the MEDEP enforcement files.
6	Gulf Oil	This was a FFY '13 HPV add. Timely and appropriate enforcement was taken by MEDEP. Case addressed and resolved in 195 days.	MEDEP followed their penalty policy for calculating the gravity portion of the penalty and there was documentation in the file that economic benefit was considered and determined to be insignificant.	The file includes documentation discussing the rationale for reducing the penalty from \$34,500 to \$29,500. Penalty reduced because of litigation risk and cooperation by facility in the enforcement process.	Copy of penalty check for \$29,500 found in the MEDEP enforcement files.
7	Burnham & Morrill, Co.	Not an HPV.	N/A	N/A	N/A
8	Sabre Corp.	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
9	Verso Androscoggin, LLC	2300700004	No CMR report for review period.	MEDEP files and DFR consistent.	N/A
10	Boralex Stratton Energy	2300700368	CMR report written 22 days from inspection.	MEDEP files and DFR consistent with the exception that the DFR indicates a compliance status of "unknown" due to the fact that this facility did not have an FCE conducted within the required CMS policy frequency of 2 years. This facility should have been inspected in FFY '12, but was not inspected (FCE) until 6/5/13.	Documentation of all FCE elements made.
11	Verso Androscoggin, LLC (Cogen Facility)	2300700718	CMR report written 32 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.
12	Huhtamaki Food Services	2301100010	CMR report written 41 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
9	Verso Androscoggin, LLC	N/A	An accurate compliance determination of "in violation" was made by MEDEP based on a failed stack test; however, subsequent to this testing, the facility has requested an alternative compliance demonstration that EPA has yet to act on. MEDEP is awaiting EPA's decision before it can decide if any follow-up enforcement is appropriate.	Until EPA makes a decision regarding the facility's alternative compliance demonstration, a determination of HPV status cannot be made.	Awaiting EPA's decision regarding the facility's request for an alternative compliance demonstration.
10	Boralex Stratton Energy	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.
11	Verso Androscoggin, LLC (Cogen Facility)	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.
12	Huhtamaki Food Services	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
9	Verso Androscoggin, LLC	Awaiting EPA's decision regarding the facility's request for an alternative compliance demonstration.	N/A at this time.	N/A at this time.	N/A at this time.
10	Boralex Stratton Energy	Not an HPV.	N/A	N/A	N/A
11	Verso Androscoggin, LLC (Cogen Facility)	Not an HPV.	N/A	N/A	N/A
12	Huhtamaki Food Services	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
13	North End Composites	2301300658	CMR report written 26 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.
14	Hancock Lumber, Co.	2301700011	CMR report written 5 days from inspection.	MEDEP Letter of Warning issued to facility on 5/9/13 not entered into AFS/ECHO.	Documentation of all FCE elements made.
15	SB Acquisitions, LLC	2301700073	No CMR report for review period.	MEDEP files and DFR consistent.	N/A
16	Rumford Power	2301700724	CMR report written 7 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
13	North End Composites	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.
14	Hancock Lumber, Co.	The CMR report was thorough and provided sufficient documentation to determine compliance.	An accurate compliance determination of "in violation" was made by MEDEP based on the facility's failure to maintain solvent usage records for parts washer and fuel usage records pertaining to NSPS Subpart Dc and failure to properly maintain cyclone used to control particulate matter. This is a Tier I minor source. MEDEP determined the violations only warranted a Letter of Warning. Since the violations were resolved quickly and the violations were considered minor by MEDEP, no formal enforcement action was taken. In cases where a Letter of Warning is the only enforcement to be taken and the violations are resolved quickly, MEDEP policy is to not change the compliance status to "in violation" in AFS/ECHO.	An accurate HPV determination was made. Not an HPV.	Corrective action taken prior to any enforcement action being taken by MEDEP. (Informal LOW only in this case.)
15	SB Acquisitions, LLC	N/A	An accurate compliance determination was made for failing to obtain a license.	An accurate HPV determination was made. Not an HPV. Not a major source.	Case referred to the Commissioner's Office as an 80K case.
16	Rumford Power	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination was made for all license conditions. The MEDEP inspectors added comments, as necessary, for each license condition in the Title V checklist completed explaining the rationale for their compliance determination.	An accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
13	North End Composites	Not an HPV.	N/A	N/A	N/A
14	Hancock Lumber, Co.	Not an HPV.	N/A	N/A	N/A
15	SB Acquisitions, LLC	Not an HPV.	N/A	N/A	N/A
16	Rumford Power	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
17	Lincoln Paper & Tissue, LLC	2301900010	No CMR report for review period.	MEDEP files and DFR consistent.	N/A
18	Red Shield Acquisitions (Old Town Fuel & Fiber)	2301900016	No CMR report for review period.	MEDEP files and DFR consistent.	N/A
19	Lane Construction (License #257)	2301900037	CMR report written 14 days from inspection.	MEDEP files and DFR consistent with the exception that the FCE conducted on 7/15/13 was not entered into AFS/ECHO.	There was no documentation regarding the facilities cement silos or rock crushers.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
17	Lincoln Paper & Tissue, LLC	N/A	An accurate compliance determination of "in violation" was made by MEDEP based on a failed stack test.	An accurate HPV determination was made. This was a FFY '13 HPV add.	Corrective action taken prior to formal enforcement action being taken by MEDEP. Formal enforcement (Consent Agreement) was taken on 1/22/13.
18	Red Shield Acquisitions (Old Town Fuel & Fiber)	N/A	An accurate compliance determination of "in violation" was made by MEDEP based on reviews of Title V annual compliance certifications and reviews of CEM excess emission reports.	An accurate HPV determination was made. This was a FFY '11 HPV add.	Corrective action taken prior to formal enforcement action being taken by MEDEP. Formal enforcement (Consent Agreement) was taken on 11/7/12.
19	Lane Construction (License #257)	The CMR report did not provide compliance determinations for licensed conditions pertaining to the cement silos or rock crushers. Specifically, the CMR did not indicate if the cement silos were being properly vented to the baghouse, were complying with opacity limits, or whether maintenance logs were being maintained. In addition, the CMR report did not discuss if the rock crushers were meeting NSPS Subpart OOO requirements or complying with license requirements such as maintaining spray nozzles, maintaining maintenance and operating logs, and whether performance tests were being conducted every 5 years.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An accurate HPV determination was made. Not an HPV. Not a major source.	Corrective action was discussed in the MEDEP's Letter of Warning. The Letter of Warning was the only enforcement taken in this case for some opacity exceedances (3, six minute averages above the 10% opacity limit.)

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
17	Lincoln Paper & Tissue, LLC	This was a FFY '13 HPV add. Timely and appropriate enforcement was taken by MEDEP. Case addressed and resolved in 67 days.	MEDEP followed their penalty policy for calculating the gravity portion of the penalty and there was documentation in the file that economic benefit was considered and determined to be insignificant.	Proposed penalty and final penalty was the same.	Copy of penalty check for \$4,050 found in the MEDEP enforcement files.
18	Red Shield Acquisitions (Old Town Fuel & Fiber)	This was a FFY '11 HPV add. Timely enforcement was not taken in this case due to the political nature of the case and the complexities of the case, especially in regards to the approval of a Supplemental Environmental Project. The case was ultimately handled by the Commissioner's Office. Appropriate enforcement was taken. The case was addressed in 623 days.	MEDEP followed their penalty policy for calculating the gravity portion of the penalty and there was documentation in the file that economic benefit was considered and determined to be insignificant.	The file includes documentation discussing the rationale for reducing the penalty from \$350,000 to \$250,000. Penalty reduced because of cooperation by facility in the enforcement process and their willingness to implement an emission minimization plan.	Their was documentation in the enforcement file that the full penalty portion of the penalty, \$50,000 had been paid (copy of check in file). In addition, there was a letter in the file from MEDEP, dated 6/24/13, that indicated that MEDEP was satisfied that the facility had completed the Supplemental Environmental Project it had undertaken.
19	Lane Construction (License #257)	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
20	Corinth Wood Pellet Corp.	2301900956	CMR report written 1 day from inspection.	MEDEP files and DFR consistent with the exception that the FCE conducted on 9/24/12 was not entered into AFS/ECHO. The FCE resulted in a FFY '13 informal enforcement action being taken by MEDEP.	Documentation of all FCE elements made.
21	Naval Computer & Telecommunication Station	2302900007	CMR report written 4 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.
22	Bangor Hydro-Electric	2302900614	CMR report written 5 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
20	Corinth Wood Pellet Corp.	The CMR report was thorough and provided sufficient documentation to determine compliance.	An accurate compliance determination of "in violation" was made by MEDEP regarding the facility's failure to maintain some records/logs and for failing to submit some reports. Since the violations were resolved quickly and the violations were considered minor by MEDEP, no formal enforcement action was taken. In cases where a Letter of Warning is the only enforcement to be taken and the violations are resolved quickly, MEDEP policy is to not change the compliance status to "in violation" in AFS/ECHO.	An accurate HPV determination was made. Not an HPV. Not a major source.	Corrective action was discussed in the MEDEP's Letter of Warning. The Letter of Warning was the only enforcement taken in this case
21	Naval Computer & Telecommunication Station	MEDEP implemented use of a Title V inspection checklist that provided compliance determinations for each Title V license condition.	An accurate compliance determination of "in violation" made for the facility's failure to conduct NOx and CO testing. Subsequent testing indicated noncompliance with the CO ppm license limit. EPA to address these violation with its own Administrative Order that also addresses the RICE Rule (NESHAP/MACT Subpart ZZZZ.)	An accurate HPV determination was made. This was a FFY '12 HPV add.	Corrective action taken prior to formal enforcement action being taken by MEDEP. Formal enforcement (Consent Agreement) was taken on 10/29/12.
22	Bangor Hydro-Electric	The CMR report was detailed with the exception that it did not provide compliance determinations for all SIP requirements regarding the facility's parts washer. The report did indicate that the lid was closed over the unit and that proper posting was found on the unit.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
20	Corinth Wood Pellet Corp.	Not an HPV.	N/A	N/A	N/A
21	Naval Computer & Telecommunication Station	This was a FFY '12 HPV add. Timely enforcement was not taken in this case due to the political nature of the case and the complexities of the case, especially in regards to a state agency (MEDEP) taking enforcement against a Federal Facility (the Navy). The case was addressed in 329 days.	MEDEP followed their penalty policy for calculating the gravity portion of the penalty and there was documentation in the file that economic benefit was considered and determined to be insignificant.	Proposed penalty and final penalty was the same.	There was documentation in the file (an electronic email) that the penalty amount of \$18,000 was paid in full.
22	Bangor Hydro-Electric	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
23	General Dynamics Ordnance & Tactical Systems	230310006	CMR report written 85 days from inspection.	MEDEP files and DFR consistent	Documentation of all FCE elements made.
24	Praxair (Sermatech Coating Facility)	2303100643	CMR report written 6 days from inspection.	MEDEP files and DFR consistent.	This report did not document all FCE elements.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
23	General Dynamics Ordnance & Tactical Systems	The CMR report did not include compliance determinations regarding the fuel sulfur limit for the 2 engines with a sulfur limit of 0.05%. In addition, compliance determinations were not made for all requirements for the parts washers or for the spray booth (use only 1 spray gun at a time).	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	Initially, MEDEP reported this facility as an HPV to EPA and it was included as such in AFS; however, after further review, MEDEP determined that the pollutant in violation (particulate matter) was not a pollutant meeting the criteria of "major", and thus, MEDEP requested that this facility be removed as an HPV since the violation did not meet the HPV criteria. Although this was done, it was done subsequent to EPA "freezing" the FFY '13 data and so it is still identified, incorrectly, as an HPV in MEDEP's "Frozen" FFY '13 data.	Corrective action was taken immediately (retested violating units the following day and demonstrated compliance.) To date no enforcement has been taken for the failed particulate matter stack tests on Lines #3, #4, and #5.
24	Praxair (Sermatech Coating Facility)	The CMR report provided a general statement of compliance and that a review of records indicated that the facility was maintaining well organized and detailed fuel usage and VOC and HAP records, but did not provide compliance determinations specific to all equipment. Specifically, the report did not indicate whether the facility was meeting the opacity limit of 10% from all fuel burning equipment or whether the facility was complying with the annual VOC cap of 9,996 tons. In addition, the report did not indicate whether the facility was complying with the 12 month rolling fuel limit of 185,400,000 cubic feet or whether the facility was using the required HVLP spray guns in its spray coating operations.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report.	An accurate HPV determination was made. Not an HPV.	No violations found.

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
23	General Dynamics Ordnance & Tactical Systems	The facility has submitted a license amendment application with rationale for removing the particulate matter limit on the scrubbers associated with Lines #3, #4, and #5. MEDEP's licensing section is currently reviewing the facility's application. MEDEP's enforcement section has decided not to pursue any enforcement against the facility until the licensing section makes a determination whether the particulate matter limit can be removed from the license. If it is decided to remove the limit from the license, then MEDEP most likely will not pursue enforcement for the 1 day of violation for each line.	N/A	N/A	N/A
24	Praxair (Sermatech Coating Facility)	Not an HPV.	N/A	N/A	N/A

SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	Facility ID	General comments	Review of FY 2013 Activity 2b comments	6a comments
25	Gorham Sand & Gravel	2303100858	CMR report written 25 days from inspection.	MEDEP files and DFR consistent.	Documentation of all FCE elements made.
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SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	6b comments	7a comments	8c comments	9a comments
25	Gorham Sand & Gravel	This CMR report was detailed, but did not provide a compliance determination on whether the facility was complying with NSPS Subpart OOO recordkeeping/reporting requirements. The report did indicate compliance with sulfur in fuel limits and with opacity limits and that performance testing pursuant to NSPS Subpart OOO has been performed as required.	An accurate compliance determination was made for the equipment and regulations discussed in the CMR report. However, for some reason the DFR indicates that the facility has an "Unknown" compliance status even though the MEDEP files indicate the facility is in compliance. The FCE is properly recorded in the DFR, dated 9/19/13. The "Unknown" compliance status goes from 4/1/11 to at least 3/31/14.	An accurate HPV determination was made. Not an HPV.	No violations found.
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SRF Round 3: CAA Facility-Specific Comments

State:					
#	Facility Name	10b comments	11a comments	12a comments	12b comments
25	Gorham Sand & Gravel	Not an HPV.	N/A	N/A	N/A
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SRF Round 3: RCRA File Metric Calculation

State MAINE

Date of On-Site Review: 05/28/2014

Review of FY 2013 Activity

#	Facility Name	Facility ID	2b	6a	6b	6b avg	7a	8c	9a	10b	11a	12a	12b
2	Freeport Auto Parts, Inc.	non-notifier	y	y	y	28	y	y	y	y	y	y	y
3	EVONIK CYRO LLC	MED040249096	y	y	y	13	y	y	y	y	y	N/A	N/A
4	S.D. WARREN COMPANY	MED042141408	y	y	y	13	y	y	y	y	N/A	N/A	N/A
5	FIBER MATERIALS INC	MED048268890	y	y	y	36	y	N	y	N	N/A	N/A	N/A
6	BERWICK ACADEMY	MER000510313	y	y	y	95	y	y	y	y	y	y	y
7	MAINE MEDICAL CENTER	MED071732663	y	y	y	35	y	y	y	y	N/A	N/A	N/A
8	MAINE CENTRAL RAILROAD CO	MED097731806	y	y	y	41	y	y	y	y	N/A	N/A	N/A
9	Maine Military Authority (Kansas Rd)	MER000502252	y	y	y	54	y	y	y	y	N/A	N/A	N/A
10	MAINE MANUFACTURING	MED980914451	y	y	y	28	y	N	y	N	N/A	N/A	N/A
11	MAINE ENVIRONMENTAL LABORATORY	MED981215080	y	y	y	22	y	N	y	N	N/A	N/A	N/A
12	THE DINGLEY PRESS, LLC	MED982546673	y	y	y	43	y	y	y	y	N/A	N/A	N/A
13	SOUTHERN MAINE SPECIALTIES INC.	MED985469279	y	y	y	25	y	y	y	y	N	N	N
14	INDUSTRIAL CONCRETE SERVICES	MER000002444	y	y	y	61	y	y	y	y	N/A	N/A	N/A
16	Northeast Packaging Co	MER000506741	y	y	y	42	y	y	y	y	N/A	N/A	N/A
18	YORK HARBOR MARINE SERVICE	MER000506907	y	y	y	42	y	y	y	y	N/A	N/A	N/A
19	PARKVIEW ADVENTIST MEDICAL CENTER	MER000507491	y	y	y	42	y	y	y	y	N/A	N/A	N/A
20	CARQUEST #1527	MER000507889	y	y	y	13	y	y	y	y	N/A	N/A	N/A
22	Clark's Cars & Parts, Inc.	non-notifier	y	y	y	21	y	y	y	y	y	y	y
23	YORK HOSPITAL	MER000508655	y	y	y	51	y	y	y	N	N	N	N
24	D.A.B. INC.	MER000509257	y	y	y	28	y	y	y	y	y	y	y
25	JEFF'S MARINE INC	MER000509281	y	y	y	78	y	y	y	y	y	y	y
26	HUSSON UNIVERSITY	MER000510115	y	y	y	49	y	y	y	y	N/A	N/A	N/A
27	FINELY RESTORED	MER000510305	y	y	y	25	y	y	y	y	N/A	N/A	N/A
28													

SRF Round 3: RCRA File Metric Calculation

State MAINE

Date of On-Site Review: 05/28/2014

Review of FY 2013 Activity

#	Facility Name	Facility ID	2b	6a	6b	6b avg	7a	8c	9a	10b	11a	12a	12b
81													
82													
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99													
100													
Total Yes Responses (Numerator)			23	23	23	-	23	20	23	19	6	5	5
Total Responses (Denominator)			23	23	23	-	23	23	23	23	8	7	7
Percentage (or average for the "6b avg" column)			100.0%	100.0%	100.0%	38	100.0%	87.0%	100.0%	82.6%	75.0%	71.4%	71.4%

SRF Round 3: RCRA File Metric Initial Analysis

State MAINE

Review of FY 2013 Activity

RCRA Metric #	Name and Description	Numerator	Denominator	Metric %	Goal	Initial Findings	Details
ELEMENT 1: DATA							
2b	Complete and accurate entry of mandatory data	23	23	100.0%	100%	Meets or Exceeds Expectations	
ELEMENT 2: INSPECTIONS							
6a	Inspection reports complete and sufficient to determine compliance	23	23	100.0%	100%	Meets or Exceeds Expectations	
6b	Timeliness of inspection report completion	23	23	100.0%	100%	Meets or Exceeds Expectations	
ELEMENT 3: VIOLATIONS							
7a	Accurate compliance determinations	23	23	100.0%	100%	Meets or Exceeds Expectations	
8c	Appropriate SNC determinations	20	23	87.0%	100%	Area for State Attention	Fiber Materials, Inc., Maine Manufacturing and Maine Environmental Laboratories, all had violations and/or histories of non-compliance that should resulted in a fomal penatly action, following MEDEP's issuance of an NOV.
ELEMENT 4: ENFORCEMENT							
9a	Enforcement that returns violators to compliance	23	23	100.0%	100%	Meets or Exceeds Expectations	

SRF Round 3: RCRA File Metric Initial Analysis

RCRA Metric #	Name and Description	Numerator	Denominator	Metric %	Goal	Initial Findings	Details
10b	Appropriate enforcement taken to address violations	19	23	82.6%	100%	Meets or Exceeds Expectations	<p>MEDEP always follows an inspection with a NOV. If a penalty is going to be assessed, then they qualify the NOV as "with enforcement intent". Three cases detailed in metric 8c have been discussed. Also, York Hospital was inspected on 8/15/13 and determined to be a SNC on 12/19/13 for 16 documented violations. York Hospital was a NOV with enforcement intent on 12/19/13, but no formal enforcement was taken. In the review of the file, it appears as though management directed the staff in the HW program not to follow their normal practice of following up a NOV with enforcement intent with a penalty.</p>
ELEMENT 5: PENALTIES							
11a	Gravity and economic benefit	6	8	75.0%	100%	Area for State Attention	<p>When an estimate is calculated, MEDEP should explain the source of the value used to estimate BEN. When calculating gravity, MEDEP consistently does not explain why they chose the value, within the penalty range in the selected penalty matrix.</p>

SRF Round 3: RCRA File Metric Initial Analysis

RCRA Metric #	Name and Description	Numerator	Denominator	Metric %	Goal	Initial Findings	Details
12a	Rationale for difference between initial penalty calculation and final penalty	5	7	71.4%	100%	Area for State Attention	A common explanation for MEDEP's penalty reduction is that it is for the purpose of settlement. This reduction seems to be an automatic deduction, not based on merits of the case, or other factual information that might pose litigative risk. Also, the explanation on the % reduction selected does not explain why the % value is selected. If a 40% penalty reduction is determined to be appropriate for settlement, MEDEP should explain why a 40% reduction is appropriate. (Why not a 10% or 20% reduction?).
12b	Penalty collection	5	7	71.4%	100%	Area for State Attention	

Finding Categories

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

SRF Round 3: RCRA Facility-Specific Comments

State: MAINE				Review of FY 2013 Activity									
#	Facility Name	Facility ID	General comments	2a comments	6a comments	6b comments	7a comments	8a comments	9a comments	10a comments	11a comments	12a comments	12b comments
1	Freeport Auto Parts, Inc.	ME0400184									MEDEP took a significant, 47% reduction from the gross by component of the penalty, because the facility came into compliance. This 47% reduction is a common factor used by MEDEP and is excessive reduction in coming into compliance of regulations. Full should be complied with anyway. This 47% reduction undermines the effect of the initially imposed penalty. There is no description on how the PEN was calculated, and LFN only considered transportation, not the defined cost of the actual clean-up costs that the company had to pay. Also, the penalty does not describe why the penalty value was selected (within the selected penalty range).	OK. Facility had a fully proposed penalty.	OK. Copy of check in file.
3	EVONI CYRC LLC	ME040240296								NOV OK	NOV OK	NA	NA
4	S.D. WARREN COMPANY	ME040214100								NOV-OK	NOV-OK	NA	NA
5	FIBER WATERLUS INC	ME040208290								In order to avoid the MLER, the enforcement it was necessary to review Fiber Material's enforcement history beyond the time period of FFY13. Fiber Material has a history of non-compliance including actual discharges in 2010, MLER, and was assessed a penalty by MEDEP for \$10,000. MEDEP's most recent inspection in 2011 revealed repeated violations including storing in gross, non-RC, open, unlined and unlabeled containers and training signage. Because of Fiber Material's history, these violations show a pattern of repeat violations, despite a corporate-wide regulatory compliance effort at the facility, and therefore, the 2012 violations should have been a formal action, in this case.	NA because a formal action was not taken.	NA because a penalty was not taken.	NA because a penalty was not taken.
6	BERMICK ACADEMY	ME040010213								ACC-OK	The penalty memo consists of a qualitative that considers the violation, penalty, economic benefit, and violation factors. Also, the facility does a memo that discusses the reason for the penalty. So, the memo does not describe why a specific value in the penalty range is selected, and also does not describe the rationale information used to estimate economic benefit.	OK.	OK. Copy of check in file.
7	MAINE CENTRAL RAILROAD CO	ME040270300								NOV-OK	NA	NA	NA
8	MAINE CENTRAL RAILROAD CO	ME040270300								NOV-OK	NA	NA	NA
9	Maine Military Authority (Business P)	ME040202252								NOV-OK	NA	NA	NA
10	MAINE MANUFACTURING	ME040014461								Maine Manufacturing has a history of substantial non-compliance with violations in both 2010 and again, in 2012. Past issues observed by MEDEP, but were not handled with anything beyond an NCN. In 2012, MEDEP identified 10 violations, but the facility does not demonstrate if they are class violations or actual violations. In 2012, MEDEP identified significant violations including: violation without a business failure to minimize the potential for a release, waste characterization, failure to maintain a training plan, failure to update and implement, failure to label hazardous waste containers.	NA because a formal action was not taken.	NA because a formal action was not taken.	

SRF Round 3: RCRA Facility-Specific Comments

#	Facility Name	Facility ID	Case comments	2b comments	6a comments	6b comments	7a comments	8c comments	9a comments	10b comments	11a comments	12a comments	12b comments
11	MAINE ENVIRONMENTAL LABORATORY	MEC951219200								MEDEP inspection in 2013 included treatment/disposal of hazardous waste by Main Environmental Laboratory. MEDEP determined that the lab was using TCEP sludge with non-hazardous waste a "disposing" of as non-regulated. This is an actual release of hazardous waste, and the violator should have been determined to be a "DQ" and should have been issued a monetary penalty.	NA because a formal action was not taken	NA because a formal action was not taken	NA because a formal action was not taken
12	THE DINGLE PRESS, LLC	MEC95246673					In 2013 CI revealed a Class II violation, many classes of things. The 1961 3 CE found some training failures, but MEDEP was satisfied that the overall training program being implemented was generally effective, and that the increased follow-up was Class II violation.			During 2009, MEDEP conducted an inspection at Dingle Press, and records showed training was an issue. In 2012, Dingle Press also had records of waste training issues, but MEDEP determined that the issue was mostly documentation, and was satisfied that the training was being implemented, so a non-formal NOC was taken instead of a formal action.	NOV OK	NOV OK	NOC
13	SOUTHERN MAINE SPECIALTIES INC.	MEC952469279									Southern Maine Specialties was issued a \$12,270 penalty, but no penalty documentation was received in the reviewed file.	Southern Maine Specialties was issued a \$12,270 penalty, but no penalty documentation was observed in the reviewed file.	Southern Maine Specialties was issued a \$12,270 penalty, but no penalty documentation was observed in the reviewed file.
14	INDUSTRIAL CONCRETE SERVICES	MEC00002044								Industrial Concrete was issued a \$40,000 penalty in 1999. In 2012, significant violations were also observed including failure to use their issued EPA DIF for hazardous waste shipments, but the other violations were not directly significant enough to be able to say that a formal action should have been taken by MEDEP.	NOV OK	NA	NA
15	REFI	REFI											
16	Nathans Packaging Co.	MEC00006741								In 2009, Nathans Packaging was found to have 14 Class I violations and 12 Class II violations and was issued a formal action that includes a \$13,000 penalty including a \$10,000 SEP. The 2013 inspection did not find major non-compliance, so MEDEP issued an NOV.	NOV OK	NA	NA
17	REFI	REFI											
18	YORK HARBOR MARINE SERVICE	MEC00006600								NOV OK	NOV OK	NA	NA
19	MAJOR LEW ALLEN (H) MEDICAL CLINIC	MEC000010491								NOV OK	NOV OK	NA	NA
20	BARQUEST #1627	MEC00001989								NOV OK	NOV OK	NA	NA
21	REFI	REFI											
22	Clark's Oils & Pats, Inc.	not-refiler					determined to be SNC on 8/8/12	8 class violations and 1 class II violation. File's in date: EPA 102	NOV 8/12/12, Consent Agreement, 8/10/12	8 Class violations and 1 Class II violator	Initial penalty proposed at \$7,155. A memo in the file states that if the Hudson approved a reduction from 0% to 40%, that the only explanation for the reduction is in interest of settling the case. The file does not describe whether the reduction is based on any factual or qualitative risk.	Value of SEP was estimated to be \$11,700, but the value was reduced to \$1,020 based on cost estimated provided by the company during a site visit. A memo in the file states that Miss Hudson approved a reduction from 30% to 40% when the facility was in a final penalty. But, later, Scott White (Hudson's boss) visited the facility, and reduced the penalty to \$2,410. (The rationale for this final reduction is not well documented in the file.)	Cost of \$5,410 check in file.

SRF Round 3: RCRA Facility-Specific Comments

#	Facility Name	Facility ID	Issue of comments	7b comments	8a comments	8b comments	9a comments	9b comments	9c comments	10a comments	10b comments	10c comments	10d comments	
23	YORK-HOSPITAL	MER0100896								<p>This facility was inspected on 01/14/13, and information provided in 12/19/13. MEDEP issued a NOV with enforcement intent on 12/19/13. As of the 10/21/14, no formal action had been taken by MEDEP. There was a memo in the file from Barbara Lopez to David H. Stern, dated 09/16, stating that "for this compliance may be issued, and no further action taken on this matter without my pre-approval". David H. Stern's response to Yark's NOV submitted in the file, but it appears that no final response was issued by MEDEP, and no formal response had been issued. MEDEP's NOV, as is typical for an inspection that has been determined to require formal enforcement.</p>	<p>Despite the program's intent to take a formal action with penalties, no such action has been taken.</p>	<p>No penalty has been assessed.</p>	<p>No penalty has been assessed.</p>	
24	D.A.B. INC.	MER0100929				NOV with enforcement intent 2/18/12	Determined to be a SRC on 7/9/12	Administrative Consent Agreement 10/12/12	OK			<p>Values were calculated for both ground and economic benefit. The penalty was reduced 10% because the company was responsible for cleaning up the site. Violations in the 10/12/12 was determined to be \$3,000 for accumulating hazardous waste for a date other than 90 days without permit, but there is no description of how the \$3,000 value was estimated. Also, there is a 10% dollar cost for avoided transportation to make a penalty calculation, but the way that this cost was determined is not fully discussed.</p>	<p>There was a 20% reduction for being in immediate compliance with all discharge limits, based on the compliance time cited in 2006 and 2008 for all discharge violations. Not sure why downward adjustment was made. If anything the adjustment should have been upward for a reclassification. Also, a penalty does not describe why it is better within the penalty range was selected.</p>	<p>Copies of the former check were in the files. A tracking error or other comments, but there was no explanation of how the discrepancy was addressed.</p>
25	JEFF'S MARINE INC	MER0100938							OK			<p>The BEN calculation does not explain why the final penalty is less than the proposed penalty other than saying the company is going to clean up for hazardous waste and universal waste tonnage, which isn't even checked as a criterion. Also, the penalty does not describe how the penalty range is selected.</p>	<p>Copies of the former check were in the files.</p>	
26	PLESSIS UNIVERSITY	MER0101016							NOV-OK					
27	FINELY RESTORED	MER0101016							NOV-OK					
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1d2	Number of Tier II Facilities with Noncompliance Identified (Facility Count)	Data Verification	State	2
1.00E+01	Number of Informal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State	8
1.00E+02	Number of Tier I Facilities Subject to an Informal Enforcement Action (Facility Count)	Data Verification	State	7
1f1	Number of HPVs Identified (Activity Count)	Data Verification	State	3
1f2	Number of Facilities with an HPV Identified (Facility Count)	Data Verification	State	3
1g1	Number of Formal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State	4
1g2	Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State	4
1g3	Number of Formal Enforcement Actions Issued to Tier II Facilities (Activity Count)	Data Verification	State	0

3b2	Timely Reporting of Stack Test Minimum Data Requirements	Goal	State	100%	75.40%	57.90%	44	76	32	This was an issue because in an effort to streamline AFS data entry, MEDEP policy has been to hold off entering the stack test activity into AFS until the stack test report was submitted and reviewed to determine the proper results code. EPA will recommend that MEDEP enter the stack test data in a more timely manner with an initial results code of "pending".
3b3	Timely Reporting of Enforcement Minimum Data Requirements	Goal	State	100%	68.70%	85.70%	12	14	2	Not an issue. The two enforcement actions entered late were only slightly late (76 days and 62 days).
5a	FCE Coverage Major	Goal	State	100%	88.50%	77.80%	42	54	12	This was primarily an issue because MEDEP believed that the mega sites were due FCEs in FFY 2014 rather than FFY 2013. PCEs were done at all 6 outstanding mega sites in FFY 2013.

5b	FCE Coverage SM-80	Goal	State	100%	93.30%	69.60%	16	23	7	Not an issue regarding FCE coverage, but rather an issue in updating operating status/size classification and removing CMS flags for permanently shutdown facilities and one facility that became a true minor source.
5c	FCE Coverage Synthetic Minors (non SM-80)	Goal	State	100%	44.40%	0/0	0	0	0	
5d	FCE Coverage Minors	Goal	State	100%	60%	0/0	0	0	0	
5e	Review of Title V Annual Compliance Certifications Completed	Goal	State	100%	81.30%	89.80%	53	59	6	Not an issue. All Title V annual certifications were reviewed. There was a logic issue found with ECHO that had 3 facilities coded as synthetic minor sources, but for some reason had that annual certification reviews were required. In regards to the remaining 3 facilities, the reviews were done and accounted for in MEDEP's AECTS database, but were not uploaded to AFS.

7b1	Alleged Violations Reported Per Informal Enforcement Actions (Tier I only)	Goal	State	100%	59.50%	42.90%	3	7	4	Not an issue. Based on discussions with EPA, MEDEP has a policy not to change the compliance status to "in violation" in AFS for very minor violations/deviations that are resolved quickly and where no formal enforcement is planned.
7b2	Alleged Violations Reported Per Failed Stack Tests	Review Indicator	State		53.60%	75%	3	4	1	Not an issue. MEDEP is awaiting an EPA determination on whether an alternative compliance demonstration can be approved regarding one failed stack test not reported as a violation.
7b3	Alleged Violations Reported Per HPV Identified	Goal	State	100%	57.50%	100%	1	1	0	Good
8a	HPV Discovery Rate Per Major Facility Universe	Review Indicator	State		4%	1.70%	1	58	57	

SRF Round 3: CWA File Metric Calculation

State: Maine SRF3			Date(s) of On-Site Review: 2/14/14 & 2/21/14 & 2/28/14 & 3/31/14 & 4/1/14					
#	Facility Name	Facility ID	2b	6a	6b	6b avg	7e	8b
1	Eliot, ME	MER041004	N	N	N/A		N/A	N/A
2	City of Biddeford, ME	MER041025	N	N	N/A		N/A	N/A
2a	City of Biddeford, ME	MER041025	N	N	N	24	N/A	N/A
3	Port Harbor Marine Inc.	MER05B654	N	Y	Y	10	Y	N/A
4	Don's No Preference Towing	MER05B780	N	Y	N	90	Y	N/A
5	D.C. Air and Seafood, Inc.	MER05C067	N	Y	N	93	N/A	N/A
6	W. C. Sproul & Sons, INC.	MER05B891	N	N	Y	28	N/A	N/A
7	Webber's Cove Boat Yard Inc.	MER05B813	N	N	Y	6	N	N/A
8	Hansom Construction, Inc.	2013-015-L	N	N	N/A		N/A	Y
9	Park North Development LLC	L-23663-39	N	Y	N/A		Y	Y
10	CPSP, LLC - Water Case (SW)	MEG190117	N	Y	Y	20	Y	Y
11	CPSP, LLC - Land Case (CGP)	MEG190117	N	N	N/A		N/A	N/A
12	Dwayne Vaughn and Von Trucking & Sons, Inc.	GPID# 754	N	Y	N/A		Y	N/A
13	Bucksport WWTF	ME0100111	Y	Y	Y	13	Y	Y
13a	Bucksport WWTF	ME0100111	Y	Y	Y	13	Y	N/A
14	ISF Trading	ME0023957	Y	N	Y	44	Y	N/A
14a	ISF Trading	ME0023957	Y	Y	Y	10	Y	N/A
15	Lincoln Paper and Tissue	ME0002003	N	Y	Y	21	Y	Y
15a	Lincoln Paper and Tissue	ME0002003	Y	Y	Y	30	Y	N/A
16	Caribou WWTF	ME0100145	Y	Y	Y	34	Y	Y
17	Mechanic Falls WWTP	ME0100391	Y	Y	Y	28	Y	Y
17a	Mechanic Falls WWTP	ME0100391	Y	N	Y	29	Y	N/A
18	Old Town WWTF	ME01000471	Y	Y	Y	24	Y	Y
18a	Old Town WWTF	ME01000471	Y	Y	Y	3	Y	N/A
19	Rockland	ME0100595	N	Y	N	51	Y	N/A
19a	Rockland	ME0100595	Y	Y	Y	14	Y	N/A
20	Sanford	ME0100617	Y	Y	Y	2	Y	N/A
20a	Sanford	ME0100617	Y	Y	Y	6	Y	N/A
21	GAC Chemicals	ME0001830	Y	Y	Y	20	Y	N/A
22	ReEnergy	ME0023710	Y	Y	Y	100	Y	Y
23	Livermore Falls	ME0100315	Y	Y	N	83	Y	Y
24	Portland Water District East End Facility	ME0102075	N	Y	Y	5	Y	Y

SRF Round 3: CWA File Metric Calculation

State: Maine SRF3		Year Reviewed: FFY 2013					
#	Facility Name	8c Identified as SNC only at major	9a Enforcement responses that return sources to compliance	10b Enforcement responses reviewed in an appropriate manner	11a Gravity and economic benefit responses that address difference between initial & final penalty	12a Documenting rationale for penalties collected	12b Penalties collected for initial & final penalty
1	Eliot, ME	N/A	N/A	N/A	N/A	N/A	N/A
2	City of Biddeford, ME	N/A	N/A	N/A	N/A	N/A	N/A
2a	City of Biddeford, ME	N/A	N/A	N/A	N/A	N/A	N/A
3	Port Harbor Marine Inc.	N/A	Y	Y	Y	Y	N/A
4	Don's No Preference Towing	N/A	Y	Y	N	Y	N/A
5	D.C. Air and Seafood, Inc.	N/A	N/A	N/A	N/A	N/A	N/A
6	W. C. Sproul & Sons, INC.	N/A	N/A	N/A	N/A	N/A	N/A
7	Webber's Cove Boat Yard Inc.	N/A	N/A	N/A	N/A	N/A	N/A
8	Hansom Construction, Inc.	Y	Y	Y	Y	Y	Y
9	Park North Development LLC	Y	Y	Y	N	N	Y
10	CPSP, LLC - Water Case (SW)	Y	Y	Y	N/A	N/A	N/A
11	CPSP, LLC - Land Case (CGP)	N/A	Y	Y	Y	Y	Y
12	Dwayne Vaughn and Von Trucking & Sons, Inc.	N/A	Y	Y	Y	N	Y
13	Bucksport WWTF	Y	Y	Y	N/A	N/A	N/A
13a	Bucksport WWTF	N/A	N/A	N/A	N/A	N/A	N/A
14	ISF Trading	N/A	Y	Y	N	N/A	Y
14a	ISF Trading	N/A	N/A	N/A	N/A	N/A	N/A
15	Lincoln Paper and Tissue	N/A	Y	Y	Y	Y	Y
15a	Lincoln Paper and Tissue	N/A	N/A	N/A	N/A	N/A	N/A
16	Caribou WWTF	N/A	Y	Y	N/A	N/A	N/A
17	Mechanic Falls WWTP	N/A	N/A	N/A	N/A	N/A	N/A
17a	Mechanic Falls WWTP	N/A	N/A	N/A	N/A	N/A	N/A
18	Old Town WWTF	N/A	N/A	N/A	N/A	N/A	N/A
18a	Old Town WWTF	N/A	N/A	N/A	N/A	N/A	N/A
19	Rockland	N/A	N	N	N	N/A	N/A
19a	Rockland	N/A	N/A	N/A	N/A	N/A	N/A
20	Sanford	N/A	N/A	N/A	N/A	N/A	N/A
20a	Sanford	N/A	N/A	N/A	N/A	N/A	N/A
21	GAC Chemicals	N/A	N/A	N/A	N/A	N/A	N/A
22	ReEnergy	N/A	Y	Y	N/A	N/A	N/A
23	Livermore Falls	Y	Y	N/A	N/A	N/A	N/A
24	Portland Water District East End Facility	Y	Y	Y	N	Y	Y

SRF Round 3: CWA File Metric Calculation

State: Maine SRF3			Date(s) of On-Site Review: 2/14/14 & 2/21/14 & 2/28/14 & 3/31/14 & 4/1/14						
			Data accurately reflected in national data system	Inspection reports complete and sufficient to determine compliance	Timeliness of inspection report completion: Enter Y or N	Enter number of days to complete inspection report. Bottom line will produce average.	Accuracy of compliance determinations	SEVs accurately identified as SNC or non-SNC at majors	SEVs reported timely at facilities
#	Facility Name	Facility ID	2b	6a	6b	6b avg	7e	8b	
24a	Portland Water District East End Facility	ME0102075	N	Y	Y	2	Y	N/A	
25	Flood Brothers Inc.	ME0036986	N	Y	Y	7	Y	N/A	
25a	Flood Brothers Inc.	ME0036986	N	Y	Y	32	Y	N/A	
26	Wren Farm	ME0036821	Y	Y	Y	6	Y	N/A	
27	Sprague Energy	ME0001821	Y	N	Y	6	Y	N/A	
27a	Sprague Energy	ME0001821	Y	N	Y	35	Y	N/A	
28	Wiscasset WWTF	ME0100757	Y	N	Y	13	Y	N/A	
28a	Wiscasset WWTF	ME0100757	Y	Y	Y	2	Y	N/A	
28b	Wiscasset WWTF	ME0100757	Y	Y	Y	1	Y	N/A	
28c	Wiscasset WWTF	ME0100757	Y	Y	Y	11	Y	N/A	
29	Me Inland Fisheries	ME0001091	Y	N	Y	6	Y	N/A	
30	Palermo Fish Rearing Station	ME0001074	Y	Y	Y	1	Y	N	
30	Palermo Fish Rearing Station	ME0001074	Y	Y	Y	5	Y	N/A	
31	Sea Hag Seafood Inc	ME00237346	Y	Y	Y	5	Y	N/A	
31a	Sea Hag Seafood Inc	ME00237346	Y	N	Y	1	N	N/A	
32	Sappi Fine Paper - Skowhegan	ME0021521	N	Y	Y	33	N	Y	
32a	Sappi Fine Paper - Skowhegan	ME0021521	N	Y	Y	1	Y	N/A	
33	Eastern Maine Mussel Corp Inc.	ME0037036	Y	Y	Y	21	Y	N/A	
Total Yes Responses (Numerator)			28	36	39	-	40	12	
Total Responses (Denominator)			49	50	44	-	43	13	
Percentage (or average for the "6b avg" column)			57.1%	72.0%	88.6%	22	93.0%	92.3%	

SRF Round 3: CWA File Metric Calculation

State: Maine SRF3		Year Reviewed: FFY 2013					
		<i>Identified as SNC only at major</i>	<i>Enforcement responses that return sources to compliance</i>	<i>Enforcement responses reviewed in an appropriate manner</i>	<i>Gravity and economic benefit responses that address violations in an appropriate</i>	<i>Documenting rationale for final penalty difference between initial &</i>	<i>Penalties collected for initial &</i>
#	Facility Name	8c	9a	10b	11a	12a	12b
24a	Portland Water District East End Facility	N/A	N/A	N/A	N/A	N/A	N/A
25	Flood Brothers Inc.	N/A	Y	N	N/A	N/A	N/A
25a	Flood Brothers Inc.	N/A	N/A	N/A	N/A	N/A	N/A
26	Wren Farm	N/A	Y	Y	N/A	N/A	N/A
27	Sprague Energy	N/A	N/A	N/A	N/A	N/A	N/A
27a	Sprague Energy	N/A	N/A	N/A	N/A	N/A	N/A
28	Wiscasset WWTF	N/A	Y	Y	N/A	N/A	N/A
28a	Wiscasset WWTF	N/A	N	Y	N/A	N/A	N/A
28b	Wiscasset WWTF	N/A	N/A	N/A	N/A	N/A	N/A
28c	Wiscasset WWTF	N/A	Y	Y	N	Y	N/A
29	Me Inland Fisheries	N/A	N/A	N/A	N/A	N/A	N/A
30	Palermo Fish Rearing Station	N/A	N/A	N/A	N/A	N/A	N/A
30	Palermo Fish Rearing Station	N/A	N/A	N/A	N/A	N/A	N/A
31	Sea Hag Seafood Inc	N/A	Y	Y	N/A	N/A	N/A
31a	Sea Hag Seafood Inc	N/A	Y	Y	N/A	N/A	N/A
32	Sappi Fine Paper - Skowhegan	N/A	Y	Y	N/A	N/A	N/A
32a	Sappi Fine Paper - Skowhegan	N/A	N/A	N/A	N/A	N/A	N/A
33	Eastern Maine Mussel Corp Inc.	N/A	Y	Y	N	Y	Y
Total Yes Responses (Numerator)		6	22	21	5	8	8
Total Responses (Denominator)		6	24	23	12	10	8
Percentage (or average for the "6b avg" co		100.0%	91.7%	91.3%	41.7%	80.0%	100.0%

X-SW

	2b	6a	6b	6b avg	7e	8b	8c	9a	10b	11a	12a	12b
EXCLUDING STORMWATER FACILITIES												
Total Yes Responses (Numerator)	28	30	35	-	35	9	3	15	14	1	4	4
Total Responses (Denominator)	36	37	37	-	37	10	3	17	16	6	4	4
Percentage (or average for the "6b avg" column)	78%	81%	95%	19	95%	90%	100%	88%	88%	17%	100%	100%
With SW (STEP 2)												
DIFFERENCE	21%	9%	6%	-3	2%	-2%	0%	-3%	-4%	-25%	20%	0%
Total Yes Responses (Numerator)	28	36	39	-	40	12	6	22	21	5	8	8
Total Responses (Denominator)	49	50	44	-	43	13	6	24	23	12	10	8
Percentage (or average for the "6b avg" column)	57%	72%	89%	22	93%	92%	100%	92%	91%	42%	80%	100%

SRF Round 3: CWA File Metric Initial Findings

State: Maine SRF3

Year Reviewed: FFY 2013

CWA Metric #	Description	Numerator	Denominator	Metric Value	Goal	Initial Findings	Details
ELEMENT 1: DATA							
2b	Files reviewed where data are accurately reflected in the national data system	28	49	57.1%	95%	Area for State Improvement	
ELEMENT 2: INSPECTIONS							
6a	Inspection reports complete and sufficient to determine compliance at the facility	36	50	72.0%	100%	Area for State Attention	
6b	Timeliness of inspection report completion	39	44	88.6%	100%	Meets or Exceeds Expectations	
ELEMENT 3: VIOLATIONS							
7e	Accuracy of compliance determinations	40	43	93.0%	100%	Meets or Exceeds Expectations	
8b	SEVs accurately identified as SNC or non-SNC at major facilities	12	13	92.3%	100%	Meets or Exceeds Expectations	
8c	SEVs identified as SNC reported timely at major facilities	6	6	100.0%	100%	Meets or Exceeds Expectations	
ELEMENT 4: ENFORCEMENT							
9a	Enforcement responses that returned, or will return, sources in violation to compliance	22	24	91.7%	100%	Meets or Exceeds Expectations	
10b	Enforcement responses reviewed that address violations in an appropriate manner	21	23	91.3%	100%	Meets or Exceeds Expectations	
ELEMENT 5: PENALTIES							
11a	Penalty calculations that document and include gravity and economic benefit	5	12	41.7%	100%	Area for State Improvement	

SRF Round 3: CWA File Metric Initial Findings

CWA Metric #	Description	Numerator	Denominator	Metric Value	Goal	Initial Findings	Details
12a	Documentation of the rationale for difference between initial penalty calculation and final penalty	8	10	80.0%	100%	Meets or Exceeds Expectations	
12b	Penalties collected	8	8	100.0%	100%	Meets or Exceeds Expectations	

Finding Categories

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

SRF Round 3: CWA Facility-Specific Comments

State: ME			Review Year: 2013			
#	Facility Name	Facility ID	General comments	2b comments	6a comments	6b comments
1	Elliot, ME	MER041004	Conducted MS4 audit in 2013	Data not entered in national data system (ICIS).	Questions are posed to facility in 2/25/13 annual review letter about permittee's compliance status concerning IDDE follow-up, need for street sweeping, and cause of erosion issues. No compliance determination made.	
2	City of Biddeford, ME	MER041025	A CMS goal was defined for inspecting/auditing MS4 Phase II entities at a rate of 10% in FY13. This was the first time such a goal was prescribed to this inspection category. In the past MS4 compliance was determined through annual report review and informal meetings. National CMS policy states that from the date of policy implementation (Oct. 2007) an "appropriate amount of inspector" shall be completed across the entire universe to determine compliance within seven years (by Oct. 2014). This has been communicated to the state during FY 2013.	MEDEP does not currently enter any data from the Municipal Separate Storm Sewer (MS4) program into ICIS. The department is currently working on building a system to transfer the data from their state database. SNC violations are required, but none were entered because of reason stated previously.	Questions within 2/11/14 report letter are posed to facility about their compliance status (i.e. if they have indeed completed their GIS mapping) yet the report's text states the facility is in full compliance. (see also the comment in section E of inspection Checklist)	This inspection report letter was not generated from a typical on-site inspection, but rather from a desk-top review of a required annual report. This review activity, prior to FY13, was used by the MEDEP as the sole mechanism of compliance determination. The "number of days taken to complete" reported for metric 6b could have been calculated as the time the review letter was finalized from the date the report was submitted to the MEDEP. EPA Region 1 believed this an inappropriate indicator because (a) the letter was the sole work product of the desk-top review and (b) Draft EPA headquarters protocol now permits desk-top reviews to now be considered as a type of compliance determination inspection. 100 days was used for metric calculation.
2a	City of Biddeford, ME	MER041025		data not entered in national data system (ICIS).	Compliance determination language with respect to Minimum Control Measure 5 (MCM5) is unclear because permit standards are not compared directly to activities implemented by the permittee to then determine compliance.	
3	Port Harbor Marine Inc.	MER05B654		data not entered in national data system (ICIS).	no description of industrial activity, no signature or list of participants who were on inspection.	
4	Dor's No Preference Towing	MER05B780		data not entered in national data system (ICIS).	At time of 5/8/13 inspection the DEP was developing an enforcement action however the purpose of the inspection was not indicated in narrative inspection report. Only evidence in report is one reference to a comment made by facility owner. No photos.	
5	D.C. Air and Seafood, Inc.	MER05C067			only field notes. Follow-up letter then states, "Please clean the deposits from the ditch on a regular basis as the process water mixes with stormwater". There is no mention of status of process water permitting or compliance.	No photos, no facility description or updates on process water comments made by wastewater inspector who visited site on 10/4/11 and subsequently referred the site to the stormwater group.
6	W. C. Sproul & Sons, INC	MER05B891		data not entered in national data system (ICIS).	Inspection report was inconsistent and confusing as to applicability and compliance determination. In the inspection letter it states that non-stormwater certification is required. In another section the inspector explains the location of where sampling is necessary. The "corrections required" section of the inspection checklist also states that quarterly visual monitoring records are required. At the end of the inspection checklist however the box is marked that indicates the facility is "in compliance" for the items inspected, only one report was written for two facilities, and the participants at each inspection were not listed.	
7	Webber's Cove Boat Yard Inc.	MER05B813	Idea presented to MEDEP Stormwater Manager upon review of this file was that perhaps every file could have a write up of industrial activities that occur at each respective facility. After or during each inspection in the future the inspector would simply have to reference the summary in their inspection report and then sign and update as necessary the summary. The summary could make reference to the NOI or other facility submitted information.	data not entered in national data system (ICIS).	no description of industrial activity, no signature, no purpose of the inspection, or list of participants who were on inspection. No narrative report. No supporting evidence (photos, statements made by the facility, site description, etc.).	
8	Hanson Construction, Inc.	2013-015-L	No inspection report.	data not entered in national data system (ICIS).	no inspection report for 11/27/12 inspection.	
9	Park North Development LLC	L-23663-39	No inspection report	data not entered in national data system (ICIS).		third party inspection forms only. No MEDEP inspection reports in file.
10	CPSP, LLC - Water Case (SW)	MEQ190117		data not entered in national data system (ICIS).		
11	CPSP, LLC - Land Case (CGP)	MEQ190117	No inspection report	data not entered in national data system (ICIS).	inspection notes only, no documentation of inspection purpose or compliance determination. No photos.	

SRF Round 3: CWA Facility-Specific Comments

State: ME							
#	Facility Name	Facility ID	7e comments	8b comments	8c comments	9a comments	10b comments
1	Eliot, ME	MER041004	No public event conducted in PY1, compliance determination regarding IDDE follow-up and street sweeping BMPs are unclear from submitted reports. MEDEP states that they will be looking into these areas of question on upcoming MS4 audit. NO COMPLIANCE DETERMINATION MADE.				
2	City of Biddeford, ME	MER041025	Agency reported that permittee is in compliance even though submitted evidence concerning Minimum Control Measure 3 makes a compliance determination for that aspect of the permit unclear. NO COMPLIANCE DETERMINATION MADE.				
2a	City of Biddeford, ME	MER041025	No compliance determination was made, therefore this metric was given a 'N/A' for the accuracy of the compliance determination.				
3	Port Harbor Marine Inc.	MER05B654				LCW placed facility on a 30-day compliance schedule. File does not follow-up with determination if compliance was achieved	No SWPPP is SNC and according to EPA wet weather SNC policy guidance would require more than informal action.
4	Don's No Preference Towing	MER05B780					Agency took appropriate response but not in a timely manner. Nov, 2008 first evidence of non-compliance and no penalty until 5 more years of continued non-compliance.
5	D.C. Air and Seafood, Inc.	MER05C067	No compliance determination was made besides the facility needs more training.				
6	W. C. Sproul & Sons, INC.	MER05B891	see comments from 6a; no comp. determination made				
7	Webber's Cove Boat Yard Inc.	MER05B813	After the inspection checklist indicates that corrections are required regarding quarterly site inspections it ends by checking the box for 'site is in compliance'.				
8	Hansom Construction, Inc.	2013-015-L					
9	Park North Development LLC	L-23663-39					After MEDEP attempted to enter a consent agreement (07/28/09) but failed, the case was referred to the AG's office (02/10/10) where it took 3 years to settle (4/25/13).
10	CPSP, LLC - Water Case (SW)	MEG190117					
11	CPSP, LLC - Land Case (CGP)	MEG190117	no compliance determination made because there was no inspection report written.				

SRF Round 3: CWA Facility-Specific Comments

State: ME					
#	Facility Name	Facility ID	11a comments	12a comments	12b comments
1	Ellis, ME	MER041004			
2	City of Biddeford, ME	MER041025			
2a	City of Biddeford, ME	MER041025			
3	Port Harbor Marine Inc.	MER05B654			
4	Don's No Preference Towing	MER05B780	Enf. Officer stated that economic benefit was considered only if it was very "clear". DWQM Enf. Manager stated that dept usually considers economic benefit of labor for larger companies. Enf. policy does state that economic benefit should be considered.	Initial metric for historic violations in penalty calculation was given value of 1.5 (range of 1 to 2.5). Enf. Manager noted however that value should be > 1 only if 'binding actions' have been applied in the past. Enf. Officer noted that NCM's are not binding.	
5	D/C. Alf and Seafood, Inc.	MER05C067			
6	W. C. Sproul & Sons, INC.	MER05B691			
7	Webber's Cove Boat Yard Inc.	MER05B613			
8	Hanson Construction, Inc.	2013-015-L			
9	Park North Development LLC	L-23563-39	Financial Gain' Column of penalty calculation is zero with no explanation.	Only note concerning the decrease in penalty amount is "10% off" (decreased from 17293 to 16500. A hand written note in the margin of a printed email states "in penalty = 62 days x 3 violations = \$19600.	yes.
10	CPSP, LLC - Water Case (SW)	MEG190117			
11	CPSP, LLC - Land Case (CGP)	MEG190117			

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	General comments	2b comments	6a comments	6b comments
12	Dwayne Vaughn and Von Trucking & Sons, Inc.	GPIID# 754	No inspection report	data not entered in national data system (ICIS).	No inspection reports, just field notes and site map. The Compliance Determinations guidance document for the Division of Land Resources Regulation (DEPLR/0819-1998 says to record finding on site map and implies that 'f4' inspections must fill out 'special forms' and must be entered into a compliance database. Does this exist?	MEDEP Gravel Pit Enforcement Guidance recommends 2 weeks for LOW or NOV issuance upon discovery of a violation and when an enforcement action is required.
13	Bucksport WWTF	ME0100111	Similar to Winterport WWTP who also had 301(h) waiver removed. Curious to know how their violations were dealt with by department in terms of entering into data systems due to the fact that the "Dept has come up with a work around to not include TSS and BOD violations as 'new monthly issues' for discussion at their NCR meetings while still enabling reporting of other violations such as SSCs".			
13a	Bucksport WWTF	ME0100111	Best inspection report I have read to date Includes full 3560 and narrative report that references the purpose of the inspection, who was present, a compliance determination and a signature!	great to see a non-major enforcement action entered into ICIS.	reference to the permit were made well for O&M requirements.	
14	ISF Trading	ME002957	No conclusion about whether the facility has come into full compliance after consent agreement was settled in January of 2012 (12/30/14 inspection report)	Penalty not recorded in ICIS, nor was the facility's latest inspection 12/30/13 (inspection report of newly assigned inspector referenced an alternate MEPDES permit number - learned that this was just a data entry error).	Wastewater inspection report checklist field: comment/recommendations/corrective action states, "sea water flow pumped into the outfall during processing must be taken into account when reporting flow and loading". No reference to permit or determination of whether this causes the facility to be in non-compliance.	
14a	ISF Trading	ME002957	inspection was a recon and therefore only has a narrative report (9/8/12 inspect report)	No time on inspection report/form, nor address and telephone of facility.		
15	Lincoln Paper and Tissue	ME0002003	No enforcement information entered into ICIS for this major facility (NOV & CA).			
15a	Lincoln Paper and Tissue	ME0002003				
16	Carbou WWTF	ME0100146				
17	Mechanic Falls WWTP	ME0100391			No reference made to permit limits	
17a	Mechanic Falls WWTP	ME0100391	(10/1/12 insp report)		Two copies of report are in file, each signed by one of either inspector or supervisor. Supervisor commented under standby power that the facility "Should (must) have disinfection". No comment or determination about whether the facility is in compliance due to NOT having disinfection.	
18	Old Town WWTF	ME01000471				
18a	Old Town WWTF	ME01000471	recon inspection for follow-up on temporary outfall pipe construction failure. Unsure why SNIC schedule violation is recorded in ECHO for this exact time period (Q TRS 7 and 8; 7/1-9/30 2012 and 10/1-12/31 2012).			
19	Rockland	ME0100596	Enforcement response initiated primarily due to EPA intention to pursue enforcement if State did not act on violations. This type of reactive approach does not demonstrate that SNIC protocols are necessarily being followed in terms of enforcement response.	informal action (LOW) was not entered into ICIS.	Audit instruction 4 clearly states that audit findings should clearly distinguish between violations, deficiencies and effectiveness issues. Cover letter and audit checklist does not distinguish, it simply lists corrective actions to items that could be one or all of these three types of findings. Capitalization and exclamation points (see items 6 and 7, on page 10) do not suffice for communicating type/severity of finding.	was a two day audit report, so there was significantly more information to process and put into report form at.
19a	Rockland	ME0100596			combined inspection report and LOW and therefore requirements are clearly stated but lacks schedules. Perhaps was ill-addressed (only to the WPCF manager) because report indicates that Public Works and collection system O&M play a part in facility non-compliance. Perhaps findings should have been elevated immediately to City Manager.	

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	11a comments	12a comments	12b comments
12	Dwayne Vaughn and Von Trucking & Sons, Inc.	GPID# 754	uncure of how staff (M. Stebbins) initial referral memo calculated a penalty amount. Penalty assessment worksheet missing from file.	economic benefit or unpaid mining fees from 2004-2009 were not considered. No explanation of why these years not considered. Penalty policy for the Land Division at MEDEP states that "financial gain calculations should consult supervisor", and in Section 8-E "generally we would apply this criteria to knowing violation where the gain is clear".	
13	Bucksport WWTF	ME0100111			
13a	Bucksport WWTF	ME0100111			
14	ISF Trading	ME0023957	no note for economic benefit mitigation		
14a	ISF Trading	ME0023957			
15	Lincoln Paper and Tissue	ME0002003			
15a	Lincoln Paper and Tissue	ME0002003			
16	Caribou WWTF	ME0100145			
17	Mechanic Falls WWTP	ME0100391			
17a	Mechanic Falls WWTP	ME0100391			
18	Old Town WWTF	ME01000471			
18a	Old Town WWTF	ME01000471			
19	Rockland	ME0100695	asked John via email on 4/18/14 whether the penalty of 100 dollars proposed for each missed sample event was intended to be an economic benefit calc. Besides that, nothing is indicated on the penalty checklist for having assessed or justifiably excluded econ. ben.	not yet settled and therefore penalty has not fluctuated	
19a	Rockland	ME0100695			

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	7e comments	8b comments	8c comments	9a comments	10b comments
12	Dwayne Vaughn and Von Trucking & Sons, Inc.	GPID# 754					
13	Bucksport WWTF	ME0100111					301(h) waiver denied and the CA signed allows 50 months for design and funding allocation to build 2ndary treatment. If funding is not secured however paragraph 12.E. allows for amendment of C.A.
13a	Bucksport WWTF	ME0100111				Scheduled facilities plan by 4/14, but clause allows town to petition DEP for extension if funding is not secured after 30 months from final plan.	301(h) waiver denied and the CA signed allows 50 months for design and funding allocation to build 2ndary treatment. If funding is not secured however paragraph 12.E. allows for amendment of C.A.
14	ISF Trading	ME0023957				The consent agreement referenced a 30 day schedule deadline for compliance that was before the attorney general signed the document and only one day after the facility representative signed it.	
14a	ISF Trading	ME0023957					
15	Lincoln Paper and Tissue	ME0002003					
15a	Lincoln Paper and Tissue	ME0002003					
16	Carbou WWTF	ME0100146		correct to not define as SNC b/c only one event. no SEVs to define as either SNC or none SNC.			
17	Mechanic Falls WWTP	ME0100391					
17a	Mechanic Falls WWTP	ME0100391	Unsure based on supervisor's edit.				
18	Old Town WWTF	ME01000471		Oct 16, 2012 email (DEP to Town) states that DEP has no legal stake or claim (permit authority) for the dam construction project therefore it must be some other schedule violation causing the SNC (asked Charlene and Lori to look into this on 6/20/14. They responded by saying that one of the violators has been reported and the other - 10-31-13 - has yet to be reported)			
18a	Old Town WWTF	ME01000471					
19	Rockland	ME0100595	no real compliance determination was made but the accuracy of all observations and comments were correct, therefore a "Y" was marked for this metric.	SEVs such as repeated CSO bypasses and repeated SSOs were not used to determine SNC for facility.	see comment for 8b.	No schedule dates were put in the LOW that accompanied the inspection report cover letter dated September 21, 2012. This could have contributed to the fact that the City never complied with many of the actions outlined in the letter as areas of non-compliance and now requires a formal enforcement action.	because the state was not defining snc for o&w and wet weather incidents (see comment for 8b) the protocol for enforcement follow-up of SNC activities was not followed.
19a	Rockland	ME0100595					

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	General comments	2b comments	6a comments	6b comments
20	Sanford	ME0100617				
21	GAC Chemicals	ME0001630	In 2012 GAC applied for NOI for coverage under the Industrial Stormwater MSGP. Their individual wastewater NPDES permit was then amended to remove stormwater clauses. There is no mention of the facility's MSGP permit in the national database.			
22	ReEnergy	ME0023710		no 3560, therefore no signature	No signature and/or date of inspection report preparation or finalization.	
23	Livermore Falls	ME0100315	Great checklist, specifically the Permit Verification section.		slightly different inspection form used at this facility. Why? Beth explained that facilities are classified as "3560's" by size of flow (typically > 1MGD). Checklists then vary slightly by type of facility.	63 days between inspection and 3560 signature
24	Portland Water District East End Facility	ME0102075				
24a	Portland Water District East End Facility	ME0102075		no 3560 because inspector labeled it as a Recon ("Insp.R") therefore data not entered into national data system.		
25	Flood Brothers Inc.	ME0036996		Facility does not appear in either ICIS or ECHO.	Nov.2, 2012 inspection letter from MEDEP does not have identical compliance determinations as are communicated in 12/7/12 letter from ME Agr. Dept.	
25a	Flood Brothers Inc.	ME0036996			10/15/13 inspection report cover letter states, "Hopefully, efforts to spread going into the fall will be successful." This type of language which does not directly address permit requirements and/or facts/observations detracts from the strength of compliance determination and clarity of necessary actions.	
26	Wren Farm	ME0036821			Part 6: Leachate from Field Storage of the 10/24/12 CAFD inspection checklist is unclear as to whether there was evidence that runoff reached a water or wetland of the state or whether on any specific dates in the past this occurred. "In wet weather this can run into...Martin Stream...it did not appear that anything had drained [out of field]..."	
27	Sprague Energy	ME0001621	Inspection reports did not explain very well the interconnection between the facility's WW NPDES permit and the state industrial stormwater MSGP, nor the purpose of the inspections. Violations referenced the MSGP but it took a phone conversation with the inspector to understand that the violations were the same as those observed five months earlier on the 9/17/12 inspection.	ICIS recorded the one WW inspection. No reference to MSGP permit.	No 3560, no photos or field notes. Narrative report documents non-compliance with no indication that follow-up has occurred or what the current compliance status is. Conversation with inspector related that telephone communications with facility had communicated compliance, plan to re-inspect is for Fall of 2014.	
27a	Sprague Energy	ME0001621	According to inspector violations noted on inspection were not raised at NCR because stormwater is a new issue for facility. Therefore no tracking of violations occurred formally.		No 3560, nor the attendees of the inspection besides the MEDEP representatives.	
28	Wiscasset WWTF	ME0100757	(5/7/13 insp & NOV bacteria sampling SOP)		language in letter report and on checklist does not reference permit requirements and therefore does not provide sufficient information to make a compliance determination. Examples of language used: "should be an SOP for grab samples", "I suggest having reagent water tested once/yr".	

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	7e comments	8b comments	8c comments	9a comments	10b comments
20	Sanford	ME0100617		Pretreatment, SSOs and CSOs not used to clearly make a compliance determination of SNC.			
21	GAC Chemicals	ME0001890					
22	ReEnergy	ME0029710					In Dec. of 2012 DEP issued enforcement discretion notification to Facility for TSS violations through June 2013. July 2013 inspection reported TSS could still be a problem. DEP working towards a solution.
23	Livemore Falls	ME0100315					
24	Portland Water District East End Facility	ME0102075					
24a	Portland Water District East End Facility	ME0102075					
25	Flood Brothers Inc.	ME0036996					After at least four years of observing similar violations during inspections the department's response started and stopped with an NCV. The subsequent year after similar violations were documented during the annual inspection a letter was sent 3/17/14 instead of further enforcement. 3/17/14 used language such as, "we [medep] would like to see all 3 lagoons returned to original designed leachate", without reference to this being a permit requirement.
25a	Flood Brothers Inc.	ME0036996	The CAFO inspection checklist was more explicit in describing non-compliance than the narrative cover letter. More direct language concerning compliance determinations could have been extracted from checklist and used in letter to ensure the message was received by facility.				
26	Wren Farm	ME0036821					10/22/13 inspection reported similar problems as were observed in 2012 inspection and which were addressed with January 2013's L.O.W. No further enforcement action taken however.
27	Sprague Energy	ME0001821	No distance statement was made in report about non-compliance. Good general reference was made to the MSGP permit. Could have been more specific with reference when stating the facility should define two additional outfalls and begin to monitor them.				
27a	Sprague Energy	ME0001821					
28	Wiscasset WWTF	ME0100757	see 6a comment				

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	11a comments	12a comments	12b comments
20	Sanford	ME0100617			
21	GAC Chemicals	ME0001830			
22	ReEnergy	ME0023710			
23	Livermore Falls	ME0100315			
24	Portland Water District East End Facility	ME0102075	No rationale for why economic benefit was calculated or set as zero.	No rationale or memo that explains why the penalty was decreased from 8000 to 6350.	
24a	Portland Water District East End Facility	ME0102075			
26	Flood Brothers Inc.	ME0036996			
25a	Flood Brothers Inc.	ME0036996			
26	Wren Farm	ME0036821			
27	Sprague Energy	ME0001821			
27a	Sprague Energy	ME0001821			
28	Wiscasset WWTF	ME0100757			

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	General comments	2b comments	6a comments	6b comments
28a	Wiscasset WWTF	ME0100757	(8/29/13 insp & 9/23/13 LOW SOP QA/QC reporting)		Language is loose concerning permit requirements and compliance determination. I.e. please send email when you have; 2nd request for written confirmation that bypass pipe has been removed; SOPs still need to be written; please let me know when you have done this...	
28b	Wiscasset WWTF	ME0100757	(8/27/13 insp)	no 3560	good reference to 60mg/l bod limit and observations on inspection	
28c	Wiscasset WWTF	ME0100757	(9/12/13 insp and 4/13/13 ACA)			
29	Me Inland Fisheries	ME0001091	MEDEP is awaiting publication of revised phosphorous rule making in order to issue new permit to hatchery. Hatchery currently violates phosphorous limits every summer due to feeding high P food to young stock.		3560 is dated six days after inspection and has no signature. Narrative report doesn't mention who the inspector met with at the facility. No compliance determination or follow-up steps documented.	
30	Palermo Fish Rearing Station	ME0001074				
30a	Palermo Fish Rearing Station	ME0001074				
31	Sea Hag Seafood Inc	ME00237346				
31	Sea Hag Seafood Inc	ME00237346	Jim Crowley explains that insp-R's are informal and therefore individual inspectors have their own formats for producing post-inspection reports. These range from Memos, to Email notes as is the case with this inspection.		Report contains questions regarding aspects of compliance. No reference to who was present for the facility.	
32	Saggi Fine Paper - Skowhegan	ME0021521	Marty CIL, LOW and NOVs in past four years (since 2009). No record of this in ICIS. One CIL was sent in FRY2013 (, but inspection reports identify things such as spills which should have been labeled as SEV or SNC.	3560 report includes a line "inspected with". It is unclear if this individual is from the MEDEP or the facility.	Great list of previous inspections in the current inspection report, could be useful to note any observed non-compliance at these prior inspections in order to reference current compliance determination back to the corrective actions required by the informal enforcement actions of the past. Cover letter reads like an information request letter that for some aspects of the inspection seem to require further information to make a compliance determination. No where are permit requirements cited to explain what the requirements for maintaining BOD levels are while one or all aerators are turned off for repairs.	
32a	Saggi Fine Paper - Skowhegan	ME0021521				
33	Eastern Maine Mussel Corp Inc.	ME0037036	MDR does not include enforcement actions for non-majors so although CA was not entered into ICIS, it was not required.			

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	7e comments	8b comments	8c comments	9a comments	10b comments
28a	Wiscasset WWTF	ME0100757				no deadline given in LOW for ensuring that SOP is included in CAIQC document for 24-hr and 5 day reporting of violations. Nothing even asked to be submitted, just to "check"	
28b	Wiscasset WWTF	ME0100757					
28c	Wiscasset WWTF	ME0100757	did provide a date by which the city needed to respond to request				No economic benefit calculation provided with at least 1.105 M dollars of injunctive relief stated by municipality as required to comply with order (see 1/9/13 phone notes from PG file.
29	Me Inland Fisheries	ME0001091					
30	Palermo Fish Rearing Station	ME0001074		An unsubmitted DMR in ICIS for March of 2018 was causing SNC for Non-Receipt violation for Q2, 3 and 4 of 2018. Subsequent to this finding, Charlene, state data staff, has submitted the DMR and will override the RNC Status at the permit level.			
30a	Palermo Fish Rearing Station	ME0001074					
31	Sea Hag Seafood Inc	ME00237346				LOW, and NOV did not have specific deadlines because there were only reporting violations. The current reporting schedule requirements from the permit were reiterated in each correspondence.	going to be elevated to enforcement possibly at next NCR meeting due to fact that NOV did not cause them to come into compliance.
31	Sea Hag Seafood Inc	ME00237346	Email report states, "also a non-routine possibility that process wastewater may overflow into the westward yard, but that does not appear to be able to directly discharge to the harbor. Would this be considered a "bypass" condition, and need to be reported?"				
32	Sappi Fine Paper - Skowhegan	ME0021521	In the checklist section labeled "spills" the report states that "numerous spills to . . . sedimentation pond" the report continues to say that "Spill[s] to sedimentation pond are prohibited". The report also does not make reference to the compliance status of any of the past NOV's, CILs or LOWs which it lists in the section "past enforcement".	Operations and Maintenance seemed to be the only issues referenced in the inspection report so therefore the facility was not in SNC. No specific SNC determination was recorded.	n/a		
32a	Sappi Fine Paper - Skowhegan	ME0021521					
33	Eastern Maine Mussel Corp Inc.	ME0037036					

SRF Round 3: CWA Facility-Specific Comments

#	Facility Name	Facility ID	11a comments	12a comments	12b comments
28a	Wiscasset WWTF	ME0100757			
28b	Wiscasset WWTF	ME0100757			
28c	Wiscasset WWTF	ME0100757	original draft indicates a penalty of 18,110, this was lowered with explanation by P.G. to 16000. Then after a 1/14/13 meeting with City department decided to suspend 5000 dollars of penalty if the city complied with order section 13.d. No justification memo for this.		
29	Me Inland Fisheries	ME0001091			
30	Palermo Fish Rearing Station	ME0001074			
30a	Palermo Fish Rearing Station	ME0001074			
31	Sea Hag Seafood Inc.	ME00237346			
31	Sea Hag Seafood Inc.	ME00237346			
32	Sappi Fine Paper - Skowhegan	ME0021521			
32a	Sappi Fine Paper - Skowhegan	ME0021521			
33	Eastern Maine Mussel Corp Inc.	ME0037036	No gravity or economic benefit component documented in file. 12/1/08 memo from enforcement officer states that violations are repeats of past violations and therefore penalty should be 10,000.	DQWM enforcement officer who began negotiating CA in 2009 stated that penalty policy did not exist at that time. When case was passed to Laura Wells of DEP for filing as an 80K, she settled during pre-negotiations for 2500 instead of the originally stated bottom-line of 7500 (initial proposed penalty was 10,000). DQWM staff have subsequently explained that attorney's have discretion authority to settle for below bottom-line.	

CWA Metric 4a Calculation

#	Universe	Description (based on NPDES CMS target)	Universe	CMS Commitment / Performance Goal (EPA and state)	Inspections Conducted	Violations Found	Enforcement Actions Taken (formal or non-formal)	Penalties Assessed	EPA comments
4a1	Pretreatment compliance inspections	Every five years, two pretreatment compliance inspections	11	5	5	Portland Westbrook ME0100846 LAWPCA ME0101478 Portland East End ME0102075 GAUD ME0100013 Biddeford ME0100048	None	None	
4a1	Pretreatment compliance audits	Every five years, one audit at each approved local pretreatment programs	11	3	3	Biddeford ME0100048 Hartland ME0101443 Rockland ME0100595	Rockland (Draft Consent Agreement multiple Issues)	None	met commitment
4a2	Significant industrial user (SIU) inspections for SIUs discharging to non-authorized POTWs	One pretreatment inspection at each SIU annually	12	as needed	12	Hussy Seating (Some paperwork issues)	None	None	
4a4	Major CSO inspections	One inspection of each CSO every three years (once every 5 years for minors)	30	as needed	9	None	None	None	met commitment
4a5	SSO inspections	SSO inspections scheduled as needed, based on information about overflow occurrences received directly by EPA	Municipal Systems?	as needed	5	Machias ME0100323 Bangor ME0100781 Freeport ME0101036 Caribou ME0100145	Monitor NOV Monitor LOW	None	Bangor is in negotiations with EPA for Consent Decree that will address SSOs as well as MS4 and CSOs.
4a7	Phase I and II MS4 audits or inspections	One audit of each Phase I MS4 by Oct. 2012 and one every five years thereafter*; Inspections as needed; One inspection or audit of each Phase II MS4 by Oct. 2014 and one every five years thereafter	38	10%	3 (8%)			None	No phase I MS4s in the state. State is working on conducting initial round of Phase II inspections at its MS4s.
4a8	Industrial stormwater inspections	Inspections of 10% of the industrial stormwater universe each year	900	10%	950	Port Harbor Marine, Dons No Preference Towing, R Papin & Sons; Maschino & Sons; Re-Harvest; John T. Cyr. & Sons; Baxter Brewing Inc.; Kettle Cove Marina	All LOWs except Don's which was an NOV	None	national goal is 10% of universe

CWA Metric 4a Calculation

#	Universe	Description (based on NPDES CMS target)	Universe	CMS Commitment / Performance Goal (EPA and state)	Inspections Conducted	Violations Found	Enforcement Actions Taken (formal or non-formal)	Penalties Assessed	EPA comments
4a9	Ch. 500 construction stormwater inspections [Phase I (1 to 5 acres - General Standards) and Phase II (>5 acres - general standards)]	Inspections of 10% of Phase I and 5% of Phase II construction stormwater universes each year	56	10%	19 (34%)	Norman Jacques & Aline L. Jacques Revocable Trust; Richard Lary; Dwayne Vaughn and Von Trucking & Sons, Inc.; William Elwell & Patrick Frasier	formal actions	\$ 6,350	exceeded national average inspection goal
4a9	Stormwater Permit By Rule (>5 acres and < 20,000 sq ft in impaired watershed) or (>5 acres and <1 imp cover in any watershed))	inspect 10% per year	49	5%	3 (6%)			None	National goal for construction over 5 acres is actually 10%, but EPA agreed to this CMS commitment
4a10	Inspections of large and medium NPDES-permitted CAFOs	One inspection of each large and medium NPDES-permitted CAFO every five years	7	20%	7 (100%)	Rogers Farm ME0037125 Flood Farm ME0036998	NOV flood 1/14/13; LOW Rogers 1/3/13; Wren farm LOW 1/3/13	None	
Instructions:									
*For Phase I and Phase II MS4s, after the initial audit or inspection conducted within five or seven years of the NPDES CMS issuance, respectively, the goal is for the state to conduct another audit or inspection within the following timeframes:									
If initial audit/inspection leads to determination of . . .				Then another audit/inspection should be conducted within . . .					
Full compliance or only minor violations				Five years					
Violation(s) requiring enforcement order				One year					

Metric ID	Metric Name	Metric Type	National Goal	National Average	ME	Count	Universe	Not Counted	Initial Findings	Explanation
1a1	Number of Active NPDES Majors with Individual Permits	Data Verification				76				
1a2	Number of Active NPDES Majors with General Permits	Data Verification				0				
1a3	Number of Active NPDES Non-Majors with Individual Permits	Data Verification				364				
1a4	Number of Active NPDES Non-Majors with General Permits	Data Verification				12				
1b1	Permit Limits Rate for Major Facilities	Goal	>= 95%	98%	100%	76	76	0	Exceeds National Average	
1b2	DMR Entry Rate for Major Facilities	Goal	>= 95%	97%	98%	1704	1735	31	Exceeds National Average	
1b3	Number of Major Facilities with a Manual Override of RNC/SNC to a C	Data Verification				0				
1c1	Permit Limits Rate for Non-Major Facilities	Informational only		69%	78%	284	364	80	Exceeds National Average	
1c2	DMR Entry Rate for Non-Major Facilities	Informational only		81%	95%	4796	4995	199	Exceeds National Average	
1e1	Facilities with Informal Actions	Data Verification				1			Incorrect/Deficiency	should be 26 (5 NOV-E and 11 NOV-I).
1e2	Total Number of Informal Actions at CWA NPDES Facilities	Data Verification				1			Incorrect/Deficiency	Total Number of State Informal Actions at CWA NPDES Facilities should be 17.
1f1	Facilities with Formal Actions	Data Verification				1			Incorrect/Deficiency	Facilities with State Formal Actions should be 8.
1f2	Total Number of Formal Actions at CWA NPDES Facilities	Data Verification				1			Incorrect/Deficiency	Total Number of State Formal Actions at CWA NPDES Facilities should be 9.
1g1	Number of Enforcement Actions with Penalties	Data Verification				0			Incorrect/Deficiency	Number of State Enforcement Actions with Penalties should be 6.
1g2	Total Penalties Assessed	Data Verification				\$0			Incorrect/Deficiency	Total Penalties Assessed by the State should be \$54,230.
2a1	Number of formal enforcement actions, taken against major facilities	Data Verification				0			Incorrect/Deficiency	Number of State Formal Enforcement Actions, taken against Major Facilities with Enforcement Violation Type Codes should be 2. In regards to Enforcement Codes, when Maine DEP staff were reviewing ICIS codes for Enforcement Actions, there were none tha
5a1	Inspection Coverage - NPDES Majors	Goal metric	100% of state CMS plan	53%	86%	65	76	11	Exceeds National Average and meets CMS Goal	
5b1	Inspection Coverage - NPDES Non-Majors	Goal metric	100% of state CMS plan	25%	72%	261	364	103	Exceeds National Average and meets CMS Goal	
5b2	Inspection Coverage - NPDES Non-Majors with General Permits	Goal metric	100% of state CMS plan	7%	17%	2	12	10	Exceeds National Average and meets CMS Goal	
7a1	Number of Major Facilities with Single Event Violations	Data Verification				0				
7a2	Number of Non-Major Facilities with Single Event Violations	Informational only				0				
7b1	Compliance schedule violations	Data Verification				0				
7c1	Permit schedule violations	Data Verification				10				
7d1	Major Facilities in Noncompliance	Review Indicator		63%	45%	35	76	41	Exceeds National Average and meets CMS Goal	
7f1	Non-Major Facilities in Category 1 Noncompliance	Data Verification				64				
7g1	Non-Major Facilities in Category 2 Noncompliance	Data Verification				140				
7h1	Non-Major Facilities in Noncompliance	Informational only				55%	200	364	164	
8a1	Major Facilities in SNC	Review indicator metric				12				
8a2	Percent of Major Facilities in SNC	Review indicator metric		24%	15%	12	77	65	Exceeds National Average and meets CMS Goal	

10a1	Major facilities with Timely Action as Appropriate	Goal metric	>= 98%	0%	0%	0	4	4	Area for State Attention	Previously the state had entered only formal enforcement actions into ICIS. In 2013 the state produced an SOP to flow all informal enforcement data into ICIS and is testing the computer system and protocol this year 2014. The file review results demonstrated that timely enforcement for majors is being conducted.
Legend	Information provided by the State of Maine's DEP									
	EPA Assessment									
1/21/2014	EPA Data Verification									
1a3										
1	Holtachem (should be HoltRachem) Manufacturing, Orrington ME; terminated CWA permit ME0000639. Stacey Ladner, MEDEP, is project coordinator of cleanup. Bangor news reports that MEDEP took over cleanup from EPA in 2003 after facility closed in 2000 and DOJ and EPA had taken actions in '88 and 2001. In 2008 DEP ordered removal of all landfills for 200M\$ but consultants responded with a pump and treat alternative for half the price.									
7f1										
1	Holtachem									
2	Knight Calotex LLC (aka Blue Ridge Fiberboard, Lisbon Falls ME; terminated CWA permit ME0002241. ICIS reports a state inspection on 11/25/09. RCRA permit still appears active. CAA permit terminated.									
3	Squirrel Island Village Corp., Squirrel Island ME; terminated CWA permit ME0100650.									
7f2										
1	Holtachem									
2	Atlantic Salmon of Maine, Machiasport, ME; terminated CWA permit ME0024058									
3	Corinna Sewer District, Corinna ME; terminated POTW CWA permit ME0100153									

Metric ID	Metric Name	Agency	ME	Flag Value	Corrected Value	Comments
1a1	Number of Active NPDES Majors with Individual Permits	State	76	Verified		
1a2	Number of Active NPDES Majors with General Permits	State	0	Verified		
1a3	Number of Active NPDES Non-Majors with Individual Permits	State	364	Incorrect/Deficiency		Maine DEP issued a new license for ME0000639 - Holtachem MFG, on behalf of both agencies, which supersedes the old EPA license.
1a4	Number of Active NPDES Non-Majors with General Permits	State	12	Verified		
1b3	Number of Major Facilities with a Manual Override of RNC/SNC to a Compliant Status	State	0	Verified		
1e1	Facilities with Informal Actions	State	1	Incorrect/Deficiency	16	Facilities with State Informal Actions should be 16 (5 NOV-E and 11 NOV-I).
1e2	Total Number of Informal Actions at CWA NPDES Facilities	State	1	Incorrect/Deficiency	17	Total Number of State Informal Actions at CWA NPDES Facilities should be 17.
1f1	Facilities with Formal Actions	State	1	Incorrect/Deficiency	8	Facilities with State Formal Actions should be 8.
1f2	Total Number of Formal Actions at CWA NPDES Facilities	State	1	Incorrect/Deficiency	9	Total Number of State Formal Actions at CWA NPDES Facilities should be 9.
1g1	Number of Enforcement Actions with Penalties	State	0	Incorrect/Deficiency	6	Number of State Enforcement Actions with Penalties should be 6.
1g2	Total Penalties Assessed	State	\$0	Incorrect/Deficiency	54,230	Total Penalties Assessed by the State should be \$54,230.
2a1	Number of formal enforcement actions, taken against major facilities, with enforcement viol	State	0	Incorrect/Deficiency	2	Number of State Formal Enforcement Actions, taken against Major Facilities with Enforcement Violation Type Codes should be 2. In regards to Enforcement Codes, when Maine DEP staff were reviewing ICIS codes for Enforcement Actions, there were none tha
7a1	Number of Major Facilities with Single Event Violations	State	0	Verified		
7a2	Number of Non-Major Facilities with Single Event Violations	State	0	Verified		
7b1	Compliance schedule violations	State	0	Verified		
7c1	Permit schedule violations	State	49	Incorrect/Deficiency		Maine DEP staff reviewed each of the 49 Permit Schedule Violations. Please refer to the individual facility for specific comments.
7f1	Non-Major Facilities in Category 1 Noncompliance	State	64	Verified		
7g1	Non-Major Facilities in Category 2 Noncompliance	State	144	Incorrect/Deficiency		Category 2 Noncompliance is tied to the # of Permit Schedule Violations. Maine DEP staff addressed each of the 49 Permit Schedule Violations. As staff addressed Permit Schedule Violations, we addressed Non-Major Facilities in Category 2 Noncompliance. Please refer to the individual facility for specific comments (See Metric ID 7c1).
8a1	Major Facilities in SNC	State	12	Incorrect/Deficiency		See comment entered for ME0002020 - Red Shield regarding Permit Schedule items that were logged out in the State of Maine system EFIS, but not logged out in ICIS, resulting in violations.

File #	Date Reviewed	File Selected	Permit ID	Facility	Comment
1	2/21/2014	MS4	MER041004	Eliot City of	
3	2/14/2014	MSGP - Informal	MER05B654	Port Harbor Marine Inc.	
4	2/14/2014	MSGP - Formal Penalty	MER05B780	Don's No Preference Towing	Enforcement issued by Dept of Water Quality Management's Water
5	2/14/2014	MSGP	MER05C067	D.C. Air and Seafood Inc.	
2	2/14/2014	MS4	MER041021	Biddeford City of	
6	2/14/2014	MSGP	MER05B891	W.C. Sproul and Sons, Inc.	
7	2/21/2014	MSGP	MER05B813	Webber's Cover Boat Yard Inc.	
8	3/3/2014	CGP	Land Permit #	Hansom Construction, Inc.	EIS#2013-015-L
9	2/28/2014	CGP - Formal Penalty	Land Permit #	Park North Development LLC	L-23663-39
10	2/28/2014	CGP - Formal Penalty	Land Permit #	CPSP, LLC - Water Case	MEG190117
11	2/28/2014	CGP - Formal Penalty	Land Permit #	CPSP, LLC - Land Case	80k case
12	3/3/2014	CGP - Formal Penalty	Land Permit #	Dwayne Vaughn and Von Trucking & Sons, Inc.	
13	3/24/2014	ICIS - Formal Penalty	ME0100111	Bucksport WWTF	only formal action in icis
14	3/17/2014	ICIS - Formal Penalty	ME0023957	ISF Trading	only informal action in icis
15	4/1/2014	DEP correspondence - Penalty	ME0002003	Lincoln Paper & Tissue ME0002003 \$27000	
16	3/24/2014	Metric 4a SSO list	ME0100145	Caribou	not marked as CSO and LOW not listed in ICIS
17	3/17/2014	Metric 4a CSO list	ME0100391	Mechanic Falls	NCR notes Biological indicators versus Numerical limit question
18	3/24/2014	Metric 4a CSO list SNC	ME0100471	Old Town	SNC CSO some recommendations on inspection
19	4/17/2014	Metric 4a Formal	ME0100595	Rockland	Inspections and Formal Action pending
20	3/17/2014	ICIS	ME0100617	Sanford WWTF	random pretreatment selection
21	6/13/2014	ICIS	ME0001830	G A C Chemicals	labeled as MS4 in icis w/ violation
22	4/1/2014	ICIS	ME0023710	ReEnergy Livermore Falls	labeled as MS4 in icis w/ violation
23	4/1/2014	ICIS	ME0100315	Livermore Falls	only biosolids labeled in icis
24	3/31/2014	Metric 4a Formal	ME0102075	Portland East End	CA \$6350 penalty
25	4/11/2014	Metric 4a NOV CAFO	ME0036936	Flood Farm	CAFO not in ICIS;
26	4/11/2014	Metric 4a NOV CAFO	ME0036821	Wren Farm	CAFO NOV
27	3/24/2014	ICIS	ME0001821	Sprague Energy	random non-major inspected
28	4/17/2014	QNCR - NOV	ME0100757	Wiscasset	violations, SNC?, NOV
29	6/13/2014	QNCR	ME0001091	ME Inland Fisheries and Wildlife	NCR Phosphorous nutrient exceedances, DEP waiting for final nutrient rule.
30	3/31/2014	ICIS	ME0001074	Palermo Rearing Station	random non-major 2 inspections w/ violations and snc
31	3/31/2014	ICIS - NOV and referral	ME0037346	Sea Hag	NCR notes NOV and referral to enforcement
32	4/1/2014	ICIS	ME0021521	Sappi	labeled as MS4 in icis
33	3/31/2014	DEP correspondence - Penalty	ME0037036	Eastern Maine Mussel	\$2500 dollar penalty

ID Number	Facility Name	Address	City	State	ZIP CODE	Fiscal Year	Agency	State Region	County	County Code
ME0100145	CARIBOU U D WWTF	363 GRIMES RD	CARIBOU	ME	4736	2013	State	ME/MEPI	Aroostook	ME003
ME0100315	LIVERMORE FALLS WWTF	108 FOUNDRY RD	LIVERMORE FALLS	ME	4254	2013	State	ME/AU	Androscog	ME001
ME0100391	MECHANIC FALLS WWTF	56 LEWISTON ST	MECHANIC FALLS	ME	4256	2013	State	ME/MEPO	Androscog	ME001
ME0100471	OLD TOWN WWTF	298 WATER ST	OLD TOWN	ME	4468	2013	State	ME/BA	Penobscot	ME019
ME0100595	ROCKLAND WWTF	40 TILLSON AVE	ROCKLAND	ME	4841	2013	State	ME/MEAU	Knox	ME013
ME0100617	SANFORD WWTF	192 GAVEL RD	SANFORD	ME	4073	2013	State	ME/PO	York	ME031
ME0021521	SAPPI - SKOWHEGAN	1329 WATERVILLE RD	SKOWHEGAN	ME	4976	2013	State	ME/AU	Somerset	ME025
ME0001074	PALERMO REARING STATION FISH H	200 GORE RD	PALERMO	ME	4354	2013	State	ME/AU	Waldo	ME027
ME0001821	SPRAGUE ENERGY SOUTH PORTLAND	59 MAIN ST	SOUTH PORTLAND	ME	4106	2013	State	ME/MEPO	Cumberland	ME005
ME0001830	G A C CHEMICAL CORPORATION	34 KIDDER POINT RD	SEARSPORT	ME	4974	2013	State	ME/MEBA	Waldo	ME027
ME0023710	REENERGY LIVERMORE FALLS LLC	267 DIAMOND RD	LIVERMORE FALLS	ME	4254	2013	State	ME/AU	Androscog	ME001
ME0023957	ISF TRADING COMPANY	390 COMMERCIAL ST	PORTLAND	ME	4104	2013	State	ME/PO	Cumberland	ME005
ME0036821	WREN FARM INC	1056 MOOSEHEAD TR RD	DIXMONT	ME	4932	2013	State	ME/BA	Penobscot	ME019
ME0037346	SEA HAG SEAFOOD INC	56 MUSSEL RD	ST GEORGE	ME	4860	2013	State	ME/AU	Knox	ME013
ME0100111	BUCKSPORT WWTF	205 US RTE 1	BUCKSPORT	ME	4416	2013	State	ME/BA	Hancock	ME009
ME0100757	WISCASSET WWTF	69 WATER ST	WISCASSET	ME	4578	2013	State	ME/AU	Lincoln	ME015
ME0102237	PEAKS ISLAND WWTF	15 WELCH ST	PORTLAND	ME	4108	2013	State	ME/PO	Cumberland	ME005
ME0022667	EVONIK CYRO LLC	1796 MAIN ST	SANFORD	ME	4073	2013	State	ME/PO	York	ME031
ME0023213	COVANTA MAINE LLC	RTE #2	WEST ENFIELD	ME	4493	2013	State	ME/BA	Penobscot	ME019
ME0110272	LAWRENCE RAY FISHING INDUSTRIE	54 WYMAN RD	MILBRIDGE	ME	4658	2013	State	ME/BA	Washingto	ME029
MEU508086	RANGELEY WWTF	231 CHICK HILL DR	RANGELEY	ME	4970	2013	State	ME/MEAU	Franklin	ME007
did not review										

Indian Country	Universe	Permit Components	Inspections	Violation	Single Event Violations	SNC	Informal Actions	Formal Actions	Penalties	Flag Value
No	Major	POTW	2	Yes		0 No	0	0	0	Accepted Representative
No	Major	Biosolids, POTW	1	No		0 No	0	0	0	Accepted Representative
No	Major	CSO, POTW	2	No		0 No	0	0	0	Accepted Representative
No	Major	CSO, POTW	1	Yes		0 SNC	0	0	0	Accepted Representative
No	Major	CSO, POTW, Pretreatment	1	Yes		0 No	0	0	0	Accepted Representative
No	Major	CSO, POTW, Pretreatment	1	Yes		0 SNC	0	0	0	Accepted Representative
No	Major	Storm Water Small MS4s	2	No		0 No	0	0	0	Accepted Representative
No	Non-Major		2	Yes		0 Category 1	0	0	0	Accepted Representative
No	Non-Major		1	No		0 No	0	0	0	Accepted Representative
No	Non-Major	Storm Water Small MS4s	1	Yes		0 No	0	0	0	Accepted Representative
No	Non-Major	Storm Water Small MS4s	1	Yes		0 No	0	0	0	Accepted Representative
No	Non-Major		1	Yes		0 No	1	0	0	Accepted Representative
No	Non-Major	CAFO	2	No		0 No	0	0	0	Accepted Representative
No	Non-Major		3	Yes		0 Category 1	0	0	0	Accepted Representative
No	Non-Major	CSO, POTW	1	Yes		0 Category 1	0	1	0	Accepted Representative
No	Non-Major	POTW	4	Yes		0 No	0	0	0	Accepted Representative
No	Non-Major	POTW	1	Yes		0 No	0	0	0	Accepted Representative
No	Non-Major		0	Yes		0 Category 1	0	0	0	Accepted Supplemental
No	Non-Major	Storm Water Small MS4s	1	No		0 No	0	0	0	Accepted Supplemental
No	Non-Major		2	Yes		0 Category 1	0	0	0	Accepted Supplemental
No	Non-Major	POTW	5	Yes		0 Category 1	0	0	0	Accepted Supplemental

2013	Maine	CWA	File Selection							
COUNT	31		9	9	2	2	5	4		
	Universe	TOTAL Selected	POTW	Industrial	CAFO	MS4	Industrial Stormwater	CGP		
Major	76	7	6	1						
Non-Major	364	13	3	8	2					
Inspected		30	9	9	2	2	4	4		
Violation	?	16	6	3	2	1		4		
SEV	?	0								
SNC	?	3	2	1						
InFormal	18	9	1		2		2	4		
Formal	12	6	2	1			1	2		
Penalty	6	3					1	2		
Pretreat	11	3	3							
CSO	21	6	6							
SSO	3	1	1							
Biosolids	?	0								
Notes										
No MS4 inspections or enforcement were conducted in stormwater program FFY 2013										
No Industrial Stormwater data in ICIS in 2012, therefore all files selected were done so supplementally										
No CGP data in ICIS in FFY 2013, therefore all files selected were done so supplementally										

Violators Name 1	Region or Address	Town	Board or Referral Date	Date Sent to AG for Review	Date Sent for Service	Date Filed with Court	Date of Initial Hearing	Date Final Order Entered by Court	Penalty amount
Hansom Construction, Inc./	East	Northfield	10/7/2013						\$8,550
Park North Development LLC	South	Saco	4/25/2013						\$15,600
CPSP, LLC - Water Case	South	South Portland	7/26/2011						
CPSP, LLC - Land Case	South	South Portland	9/2/2011	1/17/2012	4/11/2012	4/18/2012	6/26/2012	2/20/2013	\$23,884
Dwayne Vaughn and Von Trucking & Sons, Inc.		Peru	11/27/2012	3/18/2013	5/13/2013	6/4/2013	6/28/2013		
MEDOT	Rt 108, Graham Lake Dam	Ellsworth							

Between January 1, 2013 and December 31, 2013 134 CGP applications were received and 68 were accepted according to MEDEP database file. Of the 3 that were found to be deficient, none were within the dates of FY13.

					Applied	Granted
X	56402, Capitol Area Recreation Association	CGP	Augusta, ME	Gravel Parking Lot	7/12/2013	7/31/2013
X	55744, Town of Bar Harbor	CGP	Bar Harbor, ME	New muni building	3/26/2013	3/29/2013
X	55814, Carl Soderberg	CGP	Presque Isle, ME	Clearing woods and	4/12/2013	4/12/2013

MEDEP Construction General Permit Case FY13 Lists

80K Cases

Selected Files for Review	Case Name	Program from which Violation(s) Originated	Location (MEDEP Region)	Date referred for 80K	Date Sent to AG for Review	Date Sent for Service	Date Filed with Court	Date of Initial Hearing	Date Final Order Entered by Court	Penalty Amount
X	Norman Jacques & Aline L. Jacques Revocable	Land	Oakland, ME (Central)	8/2/2012	9/5/2012	10/1/2012	10/11/2012	10/31/2012	4/18/2013	\$3,580.00
	Richard Lary	Land	Clinton, ME (Central)	11/1/2012	2/11/2013	4/9/2013	4/23/2013	5/16/2013		
	Dwayne Vaughn and Von Trucking & Sons, Inc.	Mining	Peru, ME (Southern)	11/27/2012	3/18/2013	5/13/2013	6/4/2013	6/28/2013		
X	William Elwell & Patrick Frasier	Land	Shapleigh, ME (Southern)	2/26/2013	5/31/2013	6/7/2013	7/12/2013	8/16/2013	8/16/2013	\$2,770.00

\$6,350.00

Question; Why do these cases not show up on the Land Consent Agreements list that M.Mullen provided me? Do any of the land cases have CGP applicability?

Question; Were any of these cases CGP applicable?

According to the Bi-annual Coastal Zone Management report published by the MEDEP, between the dates of January 1, 2013 and June 30, 2013 the following number of Permit by Rule ('PBR') permit applications were filed with the states.

	Downeast	Central	Souther	Total
Permits by Rule (rec'd)	103	80	203	386
Stormwater	6	3	11	20

Question; Is there any way to know which of these were CGP applicable? Could a list of these for CZM and non-CZM areas be produced?

According to Section 2: Task 306-6 (pg 23) of the 2013 CZM report, 20 stormwater law permits were applied for.

1. Task 306-6. Implementing the Site and Stormwater Laws and Reviewing Significant Coastal Development Projects

Subtask 1: Administration and Enforcement of the Site Location of Development and Stormwater Law. Below is a table summarizing the types and number of permit applications by region that were received during the reporting period. Also included are project summaries that give a brief overview of final agency action on project applications.

In 1998 the Maine Department of Environmental Protection (DEP), Maine Department of Transportation (MaineDOT) and Maine Turnpike Authority (MTA) signed a Memorandum of Agreement (MOA) for stormwater management. The MOA has been updated twice, in 2003 and 2007. In accordance with the 2007 MOA, the MaineDOT submits this annual report.

Approximately 79 projects were 'forecast' for FY2013 by the Maine Department of Transportation (and Turnpike Authority?) and were reported as such through the MOA between them and the MEDEP land bureau. Only one is expected to apply to stormwater ch. 500 law

Ch. 500 Stormwater Project FY2013 from MEDOT MOA Annual Report and Forecast Report

	Project location	Date	Description
X	MEDOT Ch. 500 Scarborough	2012	Phillips Brook Watershed
X	MEDOT SW Law Ellsworth	2012	Rt 108, Graham Lake Dam
X	MEDOT Ch. 500 Yarmouth	2013	Park n' Ride

Question; Any others applicable to CGP if only one is expected to be applicable to Ch. 500

Question; Has the Yarmouth Park n Ride been conducted?

Selected For Review

FULL_NAME	DEP Region	License No.	Facility Name	EVENT_DATE	COMMENTS	Follow up visit by Inspector
Clarissa Trasko	BA	ME0100323	MACHIAS WWTF	07-May-13	Manhole adjacent to the siphon chamber overflowed to the Machias River for an unknown period of time but likely at least a few days. Overflow was attributed to plug in line caused by rocks, boards and other debris. Operator will TV entire line to determine how these things are getting into the system. DEP inspection conducted and requested written report on results of TVing with schedule for long-term corrective actions by June 15th.	YES / Monitor Situation
Clarissa Trasko	BA	ME0100781	BANGOR WWTF	26-Nov-12	SSO from a manhole on a cross-country line out by Sam's Club. This SSO has resulted in what appears to be a significant flow to Meadow Brook over an unknown period of time. The entire brook bottom is covered with bacterial growth from the point of discharge to the confluence with Penjajawock Stream which is a distance of at least 1200 feet. Dissolved oxygen levels monitored by Mark Whiting (DEP) indicate an adverse affect on DO saturation levels in Meadow Brook. Trasko collected a water sample from Meadow Brook approximately 1200' down stream from the discharge point and obtained a result which was TNTC. The SSO was caused by a grease plug in the line. The line was cleared on the day the incident was reported to the Department. The City has inspected grease traps at the area businesses to identify problems. The City has been asked to monitor the stream for bacteria and DO on a weekly basis in order to determine duration of impact.	YES / NOV by Inspector
Stuart Rose	PO	ME0101036	FREEPORT WWTF	30-Mar-13	<1000 gallons raw wastewater from forcemain at 292 Rte 1 South bound; pump station was bypass pumped thru Easter, then pipe fixed 4/1 (Monday); corrosion, and hole in pipe; pipe being analyzed and advice to be sought on pending results.	YES / Monitor Situation
Bill Sheehan	PI	ME0100145	CARIBOU UTILITIES DISTRICT	25-May-13	<p>Overflow of ~1.2 MG partially treated wastewater to a residential yard and Aroostook River. Multiple (four) power outages on Sat afternoon caused failure of PLC component which resulted in none of the effluent pumps to restart. Alarms were also disabled by PLC failure. Wastewater filled wet well at Grimes Pumpstation and backed it up in the siphon under the Aroostook River causing wastewater to discharge out hatch at vent and lowest manhole on south side of river. Both of these discharge points were located in a residential yard. Resident called CUD and left message but did not call police Dept as instructed by answering machine message. The following morning Sunday May 26, CUD staff discovered that the pumps were off and restarted them. Since Monday was a holiday CUD did not receive residents message until Tuesday May 28. Sent staff to clean up solids and repair scouring. Removed all contaminated lawn, placed new loam and seeded and mulched site. Nearly all of discharged water flowed into Aroostook River. Solids were visible on the shore. Spoke with homeowner warned to keep children out of sewage until clean up was completed. CUD/DEP performed well water sampling for bacteria. Results non detect. Instructed CUD superintendent to figure out how electronics failed and stopped pumps and disabled redundant alarm system.</p> <p>Bypass of ~2 MG of treated effluent. Still awaiting final volume estimate. Lightning strikes took out power, backup generator operated but PLC failed to restart effluent pumps. PLC also controlled alarms for pump station so no alarms given when wet well began to over top. Flooded back up system to chlorine contact chamber and caused overflow into obsolete scum trough. Flow from here overwhelmed small PS that is used to scum and underdrainage of Solid dewatering building up to headworks. Once this got over the level of the solids building drain invert water flowed up into greenhouse and flooded this. Water ~18" high on doors. Discharged around doors and flowed across lawn to Greenlaw Stream. Final Effluent also discharged from hatches on wet well and out the top of the flow measurement manhole. These flows were likely to be treated effluent. Operator discovered overflow on Saturday June 1. Found tripped 20 amp breaker in PLC reset it and was able to restart pumps. Viewed site found little evidence of solids discharge or scouring or visible impacts to Greenlaw Stream. Recommend separate circuitry for alarms, plug or valve connection of CCC scum trough to plant sewer line, and install valve to isolate solids drying greenhouse from any backflow from plant sewer.</p>	YES /
Bill Sheehan	PI	ME0102849	Limestone Water & Sewer District	31-May-13		YES / LOW